

# Pennsylvania Consolidated Statutes

## JUDICIARY AND JUDICIAL PROCEDURE (TITLE 42)

### CHAPTER 83. PARTICULAR RIGHTS AND IMMUNITIES

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#### **§ 8331. Medical good Samaritan civil immunity.**

**(a) General rule.**--Any physician or any other practitioner of the healing arts or any registered nurse, licensed by any state, who happens by chance upon the scene of an emergency or who arrives on the scene of an emergency by reason of serving on an emergency call panel or similar committee of a county medical society or who is called to the scene of an emergency by the police or other duly constituted officers of a government unit or who is present when an emergency occurs and who, in good faith, renders emergency care at the scene of the emergency, shall not be liable for any civil damages as a result of any acts or omissions by such physician or practitioner or registered nurse in rendering the emergency care, except any acts or omissions

intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the person receiving emergency care.

**(b) Definition.--**As used in this section "good faith" shall include, but is not limited to, a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed until the patient is hospitalized.

#### **§ 8331.1. Veterinary good Samaritan civil immunity.**

**(a) General rule.--**Any individual licensed to practice veterinary medicine who, in good faith, renders emergency care to any animal which such individual has discovered at the scene of an accident or emergency situation or which has immediately prior to the rendering of such care been brought to such individual's attention at or from the scene of any accident or emergency situation shall not be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care, except any acts or omissions intentionally designed to harm, or any grossly negligent acts or omissions which result in harm to the animal.

**(b) Definition.--**As used in this section, "good faith" shall include, but is not limited to, a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed until the animal is hospitalized.

**(c) Exception.--**This section shall not apply where the owner of the animal is in attendance and can be consulted as to the proposed action by the veterinarian.

#### **§ 8331.2. Good Samaritan civil immunity for use of automated external defibrillator.**

**(a) General rule.--**Except as otherwise provided in this section, any individual who is trained to use an automated external defibrillator in accordance with subsection (c) and who in good faith uses an AED in an emergency shall not be liable for any civil damages as a result of any acts or omissions by such individual in using the AED, except any acts or omissions intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the individual receiving the AED treatment.

**(b) Requirements.--**Any person who acquires and maintains an AED for use in accordance with this section shall not be liable for civil damages provided that the person:

1. Ensures that expected AED users receive training pursuant to subsection (c).
2. Maintains and tests the AED according to the manufacturer's operational guidelines.
3. Provides instruction requiring the user of the AED to utilize available means to immediately contact and activate the emergency medical services system.
4. Assures that any appropriate data or information is made available to emergency medical services personnel or other health care providers as requested.

**(c) Training.**--For purposes of this section, expected AED users shall complete training in the use of an AED provided by the American National Red Cross or the American Heart Association or through an equivalent course of instruction approved by the Department of Health in consultation with a technical committee of the Pennsylvania Emergency Health Services Council.

**(d) Obstruction of emergency medical services personnel.**--Nothing in this section shall relieve a person who uses an AED from civil damages when that person obstructs or interferes with care and treatment being provided by emergency medical services personnel or a health professional.

**(e) Exception.**--Any individual who lacks the training set forth in subsection (c) but who has access to an AED and in good faith uses an AED in an emergency as an ordinary, reasonably prudent individual would do under the same or similar circumstances shall receive immunity from civil damages as set forth in subsection (a).

**(f) Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Automated external defibrillator" or "AED."

A portable device that uses electric shock to restore a stable heart rhythm to an individual in cardiac arrest.

"Emergency."

A situation where an individual is believed to be in cardiac arrest and in need of immediate medical attention to prevent death or serious injury.

"Good faith."

Includes a reasonable opinion that the immediacy of the situation is such that the use of an AED should not be postponed until emergency medical services personnel arrive or the person is hospitalized.

### **§ 8331.3. Criminal Victim aid Good Samaritan liability.**

Any person who provides or obtains or attempts to provide or obtain assistance for a victim of a crime involving death, serious physical injury, robbery, burglary, kidnapping, rape, statutory sexual assault or indecent assault at the scene of the criminal act or attempted criminal act shall not be liable for any civil damages as a result of any acts or omissions in providing or obtaining or attempting to provide or obtain assistance, except any acts or omissions intentionally designed to harm or any acts or omissions that constitute gross negligence or willful, wanton or reckless conduct.

### **§8332. Nonmedical good Samaritan civil immunity.**

**(a) General rule.**--Any person who renders emergency care, first aid or rescue at the scene of an emergency, or moves the person receiving such care, first aid and rescue to a hospital or other place of medical care, shall not be liable to such person for any civil damages as a result of any acts or omissions in rendering the emergency care, first aid or

rescue, or moving the person receiving the same to a hospital or other place of medical care, except any acts or omissions intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the person receiving the emergency care, first aid or rescue or being moved to a hospital or other place of medical care.

**(b) Exceptions.--**

1. This section shall not relieve a driver of an ambulance or other emergency or rescue vehicle from liability arising from operation or use of such vehicle.
2. In order for any person to receive the benefit of the exemption from civil liability provided for in subsection (a), he shall be, at the time of rendering the emergency care, first aid or rescue or moving the person receiving emergency care, first aid or rescue to a hospital or other place of medical care, the holder of a current certificate evidencing the successful completion of a course in first aid, advanced life saving or basic life support sponsored by the [American National Red Cross](#) or the [American Heart Association](#) or an equivalent course of instruction approved by the Department of Health in consultation with a technical committee of the Pennsylvania Emergency Health Services Council and must be performing techniques and employing procedures consistent with the nature and level of the training for which the certificate has been issued.

**§ 8332.1. Manager, coach, umpire or referee and nonprofit association negligence standard.**

**(a) General rule.--**Except as provided otherwise in this section, no person who, without compensation and as a volunteer, renders services as a manager, coach, instructor, umpire or referee or who, without compensation and as a volunteer, assists a manager, coach, instructor, umpire or referee in a sports program of a nonprofit association, and no nonprofit association, or any officer or employee thereof, conducting or sponsoring a sports program, shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services or in conducting or sponsoring such sports program, unless the conduct of such person or nonprofit association falls substantially below the standards generally practiced and accepted in like circumstances by similar persons or similar nonprofit associations rendering such services or conducting or sponsoring such sports programs, and unless it is shown that such person or nonprofit association did an act or omitted the doing of an act which such person or nonprofit association was under a recognized duty to another to do, knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of such person or nonprofit association fell below ordinary standards of care.

**(b) Exceptions.--**

1. Nothing in this section shall be construed as affecting or modifying the liability of such person or nonprofit association for any of the following:

- (i) Acts or omissions relating to the transportation of participants in a sports program or others to or from a game, event or practice.
  - (ii) Acts or omissions relating to the care and maintenance of real estate unrelated to the practice or playing areas which such persons or nonprofit associations own, possess or control.
2. Nothing in this section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any person not covered by the standard of negligence established by this section.

**(c) Assumption of risk or contributory fault.**--Nothing in this section shall be construed as affecting or modifying the doctrine of assumption of risk or contributory fault on the part of the participant.

**(d) Definitions.**--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Compensation."

The term shall not include reimbursement for reasonable expenses actually incurred or to be incurred or, solely in the case of umpires or referees, a modest honorarium.

"Nonprofit association."

An entity which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of this Commonwealth or the United States or any entity which is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth, including, but not limited to, youth or athletic associations, volunteer fire, ambulance, religious, charitable, fraternal, veterans, civic, county fair or agricultural associations, or any separately chartered auxiliary of the foregoing, if organized and operated on a nonprofit basis.

"Sports program."

Baseball (including softball), football, basketball, soccer and any other competitive sport formally recognized as a sport by the [United States Olympic Committee](#) as specified by and under the jurisdiction of the [Amateur Sports Act of 1978 \(Public Law 95-606, 36 U.S.C. §371 et seq.\)](#), the [Amateur Athletic Union](#) or the [National Collegiate Athletic Association](#). The term shall be limited to a program or that portion of a program that is organized for recreational purposes and whose activities are substantially for such purposes and which is primarily for participants who are 18 years of age or younger or whose 19th birthday occurs during the year of participation or the competitive season, whichever is longer. There shall, however, be no age limitation for programs operated for the physically handicapped or mentally retarded.

**§ 8332.2. Officer, director or trustee of nonprofit organization negligence standard.**

**(a) General rule.--**Except as provided otherwise in this section, no person who serves without compensation, other than reimbursement for actual expenses, as an officer, director or trustee of any nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. §501(c)(3)) shall be liable for any civil damages as a result of any acts or omissions relating solely to the performance of his duties as an officer, director or trustee, unless the conduct of the person falls substantially below the standards generally practiced and accepted in like circumstances by similar persons performing the same or similar duties, and unless it is shown that the person did an act or omitted the doing of an act which the person was under a recognized duty to another to do, knowing or having reason to know that the act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of the person fell below ordinary standards of care.

**(b) Exception.--**Nothing in this section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any nonprofit association.

### **§ 8332.3. Volunteer firefighter civil immunity.**

Volunteer firefighters shall be treated as public employees as defined in section 8501 (relating to definitions). This section shall not be construed to reduce or eliminate any other immunity provided to volunteer firefighters by law.

### **§ 8332.4. Volunteer-in-public-service negligence standard.**

**(a) General rule.--**Except as provided otherwise in this section, no person who, without compensation and as a volunteer, renders public services for a nonprofit organization under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (68A Stat. 3, 26 U.S.C. §501(c)(3) or (4)) or for a Commonwealth or local government agency conducting or sponsoring a public service program or project shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services unless the conduct of such person falls substantially below the standards generally practiced and accepted in like circumstances by similar persons rendering such services and unless it is shown that such person did an act or omitted the doing of an act which such person was under a recognized duty to another to do, knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of such person fell below ordinary standards of care.

#### **(b) Exceptions.--**

1. Nothing in this section shall be construed as affecting or modifying the liability of such person for acts or omissions relating to the transportation of participants in a public service program or project or others to or from a public service program or project.

2. Nothing in this section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any person not covered by the standard of negligence established by this section.

**(c) Assumption of risk or contributory fault.**--Nothing in this section shall be construed as affecting or modifying the doctrine of assumption of risk or contributory fault on the part of the participant.

**(d) Construction.**--The negligence standard created by this section shall not be deemed to abrogate or lessen any immunity or other protection against liability granted by statute or court decision.

**(e) Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Compensation."

The term shall not include reimbursement for reasonable expenses actually incurred or to be incurred.

"Public service program or project."

An organized program, or other public service ordinarily conducted or rendered by volunteers.

### **§ 8332.5. Corporate representatives.**

**(a) General rule.**--The liability of an individual shall be limited to the extent expressly provided by or pursuant to Title 15 (relating to corporations and unincorporated associations) See 15 Pa.C.S. Ch. 5 Subch. B (relating to fiduciary duty and indemnification), Ch. 17 Subch. B (relating to fiduciary duty) and Ch. 57 Subch. B (relating to fiduciary duty).

**(b) Certain governmental corporations.**--An individual who is a director, officer or employee of a governmental corporation and who is not entitled to immunity under Chapter 85 (relating to matters affecting government units) may assert any applicable immunity under 15 Pa.C.S. Ch. 57 Subch. B to the same extent as if the governmental corporation were a nonprofit corporation which had elected the maximum immunity available under such subchapter.

### **§ 8333. Body fluid and tissue limited civil immunity.**

**(a) General rule.**--No person shall be held liable for death, disease or injury resulting from the lawful transfusion of blood, blood components or plasma derivatives, or from the lawful transplantation or insertion of tissue, bone or organs, except upon a showing of negligence on the part of such person. Specifically excluded hereunder is any liability by reason of any rule of strict liability or implied warranty or any other warranty not expressly undertaken by the party to be charged.

**(b) Definition.--**As used in this section the term "negligence" shall include but not be limited to any failure to observe accepted standards in the collection, testing, processing, handling, storage, transportation, classification, labelling, transfusion, injection, transplantation or other preparation or use of any such blood, blood components, plasma derivatives, tissue, bone or organs.

**§ 8334. Civil immunity in mass immunization projects.**

**(a) General rule.--**Any physician who does not receive remuneration for his services in a mass immunization project approved in writing by the Department of Health or its designee under the provisions of the act of September 19, 1974 (P.L.644, No.210), and any registered nurse, or practical nurse licensed to practice in this Commonwealth who shall participate in such project and any State, county or local medical society, medical or health facility, agency or clinic approved by the department shall not be liable, except for gross negligence, to any person for illness, reaction, or adverse effect arising from or out of the use of any drug or vaccine in such project by such physician or such nurse. Neither the department nor its designee shall approve any such project unless the department or its designee finds that the project conforms to good medical and public health practice.

**(b) Exception.--**This section shall not exempt any drug manufacturer from any liability for any drug or vaccine used in such project.

**§ 8335. Damages for conversion of property of fluctuating value.**

Damages for the conversion of stocks, bonds, or other like property of fluctuating value shall be limited to the difference between the proceeds of the conversion, or that portion thereof duly paid or credited to the owner, and such higher value as the property may have reached within a reasonable time after he had notice of the conversion. Where the facts are not in dispute, such period shall be fixed by the court as a matter of law.

**§ 8336. Civil immunity for assistance upon request in incidents involving the transportation of hazardous substances.**

**(a) General rule.--**During the course of transportation, including the loading and unloading thereof, of hazardous substances, no person shall be liable in civil damages when his conduct consists solely of action or inaction taken or omitted in the course of rendering care, assistance or advice, voluntarily and upon request of any police agency, fire department, rescue or emergency squad, any other governmental agency, the person responsible for preventing, mitigating or cleaning up the danger to person, property or environment or the owner or manufacturer of the hazardous substance involved, with respect to an incident creating a danger to person, property or environment as a result of spillage, leakage, seepage, fire, explosion or other accidental or potential accidental release of hazardous substances.

**(b) Exclusions.--**The immunities provided in this section shall not apply to any person who:

1. is under a legal duty to respond to the incident;
2. received remuneration beyond reimbursement for out of pocket expenses for services in rendering such care, assistance or advice in connection therewith or had the expectation of receiving such remuneration from the recipient of such care, assistance or advice or from someone acting on his behalf; or
3. does not personally possess or does not provide personnel who possess the skill, training or knowledge with regard to the safe handling of hazardous substances, their effects and incidents involving the transportation of hazardous substances in order to render the care, assistance or advice requested.

**(c) Persons not affected.**--This section shall not be construed to affect any immunity otherwise granted by statute to any police agency, fire department, rescue or emergency squad or any other governmental agency.

**(d) Gross negligence or willful misconduct.**--Nothing in this section shall be construed to limit or otherwise affect or preclude the liability of any person resulting from such person's gross negligence or intentional misconduct. Reckless, willful or wanton misconduct shall constitute gross negligence.

**(e) Definitions.**--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Hazardous substances."

All substances which are defined as hazardous in the act of November 9, 1965 (P.L.657, No.323), known as the "Hazardous Substances Transportation Act," or any subsequent amendment thereto.

"Person."

Any individual, partnership, corporation, association or other entity.

[The act of November 9, 1965 (P.L.657, No.323), known as the Hazardous Substances Transportation Act, referred to in subsection (e), was repealed by the act of June 30, 1984 (P.L.473, No.99). The subject matter is now contained in [Chapter 83 of Title 75 \(Vehicles\)](#).]

### **§ 8337. Civil immunity of school officers or employees relating to drug or alcohol abuse.**

**(a) General rule.**--Any officer or employee of a school who, in the scope of official duty, reports drug or alcohol abuse involving a student to another officer or employee of the school, to a parent, legal guardian or spouse of the student or who refers a student for treatment or counseling or for disciplinary action by school authorities relating to drug or alcohol abuse shall not be liable to the student or the parents, legal guardian or spouse of the student for civil damages as a result of any negligent statements, acts or omissions undertaken in good faith for the purposes set forth in this section. This subsection shall also apply to school authorities who have been designated to handle disciplinary cases for negligent

statements, acts or omissions undertaken in good faith in reporting a student for drug or alcohol abuse to a law enforcement officer in accordance with school policy or procedures and based upon a reasonable belief that a crime has been, is being or will be committed. This subsection does not apply to any statement, acts or omissions which are intentionally designed to harm or which are grossly negligent and result in harm to the student.

**(b) Definitions.**--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Drug and alcohol abuse."

The unauthorized use, possession or distribution of:

1. Alcohol, as defined in the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.
2. Any controlled substance, drug, drug paraphernalia or counterfeit drug as defined in the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act, or the [act of April 14, 1972 \(P.L.233, No.64\), known as The Controlled Substance, Drug, Device and Cosmetic Act](#). The term includes any act prohibited under section 8 of the Pharmacy Act or section 13(a)(15) or (16) of The Controlled Substance, Drug, Device and Cosmetic Act.

"Officer or employee of a school."

A school director, principal, superintendent, teacher, guidance counselor, support staff member or other educational or medical employee employed in a day or residential school which provides preschool, kindergarten, elementary or secondary education in this Commonwealth, at either a public or nonpublic school.

**(c) Political subdivision tort claims.**--This section shall not reduce or impair the protections afforded by Subchapter C of Chapter 85 (relating to actions against local parties).

### **§ 8338. Liability for damages from donated food and grocery products.**

**(a) General rule.**--A person is not subject to civil or criminal liability arising from the nature, age, packaging or condition of apparently wholesome food or of grocery products apparently fit for household consumption or use that the person donated in good faith to a nonprofit organization for ultimate free distribution to needy individuals. This section does not apply to an injury or death of the ultimate users or recipients of the food or grocery products that results from an act or omission of the donor constituting gross negligence, recklessness or intentional misconduct.

**(b) Recklessness, gross negligence or intentional misconduct.**--A person who permits gleaning on property owned or occupied by him is not subject to civil or criminal liability that arises due to the injury or death of any individual involved in the collection or gleaning of donations, unless the injury or death results from an act or omission of said person constituting gross negligence, recklessness or intentional misconduct.

**(c) Nonliability.**--This section does not create any liability.

**(d) Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Donate."

To give or distribute without requiring anything of monetary value from the ultimate recipient. For purposes of this section, a nonprofit organization may donate to another nonprofit organization, notwithstanding that the donor organization has charged a processing fee to the donee organization, provided the ultimate recipient or user is not required to give anything of monetary value.

"Glean."

To harvest for ultimate free distribution to needy individuals an agricultural crop that has been donated by any person.

"Grocery products."

Any nonfood grocery products, including, but not limited to, disposable paper and plastic products, household cleaning products, bottled water, laundry detergents and cleaning products and miscellaneous household items.

"Nonprofit organization."

An incorporated or unincorporated organization that has been incorporated or established and is operating for religious, charitable or education purposes and that does not distribute any of its income to its members, directors or officers.

"Person."

Any individual, corporation, partnership, organization, association or government entity, including, but not limited to, retail grocers, wholesalers, manufacturers, restaurants, caterers, farmers, nonprofit food distributors and hospitals. In the case of a corporation, partnership, organization, association or governmental entity, the term also includes, but is not limited to, the officers, directors, partners, deacons, trustees, council members or other elected or appointed individuals responsible for the governance of such entity.

### **§ 8339. Agricultural immunity.**

**(a) General rule.**--No cause of action shall arise against the owner, tenant or lessee of land or premises for injuries to any person, other than an employee or contractor of the owner, tenant or lessee, who is on the land or premises for the purpose of picking and purchasing agricultural or farm products at a farm or "u-pick" operation, unless the person's injuries were caused by a condition which involved an unreasonable risk of harm and all of the following apply:

1. The owner, tenant or lessee knew or had reason to know of the condition or risk.
2. The owner, tenant or lessee failed to exercise reasonable care to make the condition safe or to warn the person of the condition or risk.

**(b) Definitions.**--As used in this section, the term "agricultural or farm products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden and apiary, including, but not limited to, trees and firewood.

**§ 8340. Immunity of program administrators and supervisors.**

Any probation officer or agent of the Pennsylvania Board of Probation and Parole and any public service or charitable agency or organization or political subdivision, or any official or employee thereof, supervising or administering any restitution or community service program approved by the court of common pleas or the Pennsylvania Board of Probation and Parole shall be immune from any civil action for damages brought by or on behalf of any person involved in the program or damages caused by any person involved in the program. Nothing in this section shall be construed to limit or otherwise affect or preclude liability resulting from gross negligence or intentional misconduct or reckless misconduct.

**SUBCHAPTER D. [DEFAMATION](#)**

**SUBCHAPTER E. [WRONGFUL USE OF CIVIL PROCEEDINGS](#)**

**SUBCHAPTER F. [Repealed.]**

**SUBCHAPTER G. [SPECIAL DAMAGES](#)**

**SUBCHAPTER H. [DRUG NUISANCES](#)**

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The complete Pennsylvania Statutes are not yet available on the web. However, selected portions have been made available and can be accessed by [CLICKING HERE](#). These statutes, though available instantaneously over the web, may not be the current law. Court decisions overturning them, later statutes amending them, and a host of other factors come into play when interpreting them. They are provided here as a resource. They should provide some information about the state of the law. However, a competent lawyer, *who from other sources will research the law to insure what is current*, should always be employed in matters of importance.

**Visit/Return to Home Page of [Pennsylvania District Court 15-4-04](#).**

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