



HOUSE BILL 798: NC Accountability/Safety Net.

2023-2024 General Assembly

Committee:	House Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 2, 2023
Introduced by:	Reps. Chesser, Wheatley, Willis	Prepared by:	Brad Krehely
Analysis of:	PCS to Second Edition H798-CSR-23		Committee Co-Counsel

OVERVIEW: *House Bill 798 would clarify that nongovernmental organizations who provide health, human, and welfare services pursuant to a contract with a public agency (the Department of Health and Human Services and any county or local agencies affiliated with the Department) are only liable for the injuries and damages they cause, and not those of the public agency. Nongovernmental independent contractors who provide health, human, and welfare services pursuant to a contract with a public agency would be deemed to be the equivalent of the public agency. The nongovernmental independent contractors would only be liable for the first \$1,000,000 in damages for their actions and could seek indemnification from the State for any excess amounts. The Proposed Committee Substitute clarifies that the act would apply to contracts entered into or renewed on or after October 1, 2023.*

BILL ANALYSIS:

Section 1 would clarify that nongovernmental organizations who contract with a public agency (DHHS or a local or county health department affiliated with the Department) to provide health, human, and welfare services are liable only for the injuries and damages they cause while providing those services and are not liable for injury and damages caused by those public agencies, or an employee or agent of those public agencies. These provisions cannot be waived by any court, and any contracts purporting to waive these provisions are void. Nongovernmental organizations and public agencies will each bear their own costs of defending suits for their own acts.

Section 2 would also clarify that nongovernmental independent contractors who contract with a public agency (DHHS or a local or county health department affiliated with the Department) to provide health, human, and welfare services are deemed to be the equivalent of the public entity while providing those services. Claims against the contractors would be subject to the \$1,000,000 recovery limit that is applicable to claims against the State, and the State must indemnify the nongovernmental independent contractor for any amount liability over that limit. Claims against the nongovernmental independent contractor must be filed in civil court, and the contractor's claims for State indemnification must be filed with the Industrial Commission. If indemnification is sought for a final judgment in excess of the \$1,000,000 limit, the claim must be filed with the Industrial Commission within 60 days of entry of that judgment.

EFFECTIVE DATE: This act would become effective October 1, 2023, and apply to claims arising from acts or omissions occurring on or after that date and contracts entered into or renewed on or after that date.

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