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Public Entities, Officers, and Employees

Public Entities, Officers, and Employees; civil immunities

NEV. REV. STAT. § 41.____ (new); § 41.0335 (amended).
AB 98 (Kerns); 1987 STAT. Ch 121

Under existing law, a sheriff or police chief is immune from civil liability for the negligence of a deputy or officer.¹ Chapter 121 provides that a law enforcement agency or fire department, including the fire chief, is immune from civil liability for the negligence of a fireman, officer, or other person called to assist.² Further, Chapter 121 extends this immunity to the individual officer, employee, or volunteer of the department or agency.³ Chapter 121 provides the following two exceptions from the newly-created immunities: (1) An officer, fireman, or other person who makes a representation to a person who detrimentally relies on the representation;⁴ and (2) an officer, fireman, or other person who affirmatively causes the harm.⁵ Chapter 121, however, is not intended to abrogate the common law duty of government entities to provide services to the public at large, not to individuals.⁶

SSS

1. NEV. REV. STAT. § 41.0335. *Id.* § 41.0307 (definition of officer). See *Shulz v. Lamb*, 504 F.2d 1009, 1011 (9th Cir. 1974) (diversity action against sheriff properly dismissed because Nevada Revised Statutes section 41.0335 1(a) relieves sheriff of vicarious liability based on act or omission of one of his deputies). *But see* NEV. REV. STAT. § 41.031 (general waiver of immunities from liability and actions against the State, the State's agencies and political subdivisions). See also *Chapman v. City of Reno*, 85 Nev. 365, 369, 455 P.2d 618, 620 (1969) (malicious prosecution action against city could be maintained where conduct of officer was willful misconduct or gross negligence); *Bearden v. City of Boulder City*, 89 Nev. 106, 108, 507 P.2d 1034, 1035 (1973) (city not liable for police officers' actions in arresting plaintiff). See generally Note, *Negligence of Municipal Employees; Re-defining the Scope of Police Liability*, 35 U. FLA. L. REV. 720 (1983) (criticizes public duty doctrine as inconsistent with abolition of immunities).

2. 1987 Nev. Stat. ch. 121, sec. 2, at ____ (enacting NEV. REV. STAT. § 41.0335 1(c)); *id.* sec. 1, at ____ (enacting NEV. REV. STAT. § 41.____).

3. *Id.*

4. 1987 Nev. Stat. ch. 121, sec. 1, at ____ (enacting NEV. REV. STAT. § 41.____).

5. *Id.*

6. *Id.* See *Frye v. Clark County*, 97 Nev. 632, 634, 637 P.2d 1215, 1216 (1981) (no special duty assumed by responding to a fire call where firemen first went to wrong house). *But see* *State v. Eaton*, 101 Nev. 705, 708-09, 710 P.2d 1370, 1373 (1985). State owes duty to exercise due care to keep highways reasonably safe for the traveling public, including remedying a known hazardous condition or giving appropriate warning of its presence. Thus, no state immunity where officer failed to warn drivers of black ice. *Id.*