



Pacific Law Journal Review of Selected Nevada Legislative

Volume 1989 | Issue 1

Article 147

1-1-1989

Torts; defense of residence

The University of the Pacific, McGeorge School of Law

Follow this and additional works at: <https://scholarlycommons.pacific.edu/nlr>



Part of the [Legislation Commons](#)

Recommended Citation

The University of the Pacific, McGeorge School of Law, *Torts; defense of residence*, 1989 U. PAC. L. REV. (2019).

Available at: <https://scholarlycommons.pacific.edu/nlr/vol1989/iss1/147>

This Legislative Review is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in Pacific Law Journal Review of Selected Nevada Legislative by an authorized editor of Scholarly Commons. For more information, please contact mgibney@pacific.edu.

services and limits liability for such services to negligence¹ or willful misconduct.² Chapter 32 places the same limits on liability for the service of procuring, processing, distributing and use of organs or tissue for transplantation into the human body.³

PHB

1. See generally Shodahl, *Liability for Transfusion-Transmitted Disease*, 14 WM. MITCHELL L. REV. 141 (1988) (explanation of potential liability arising from the negligent handling of blood transfusions).

2. NEV. REV. STAT. § 460.010 (1985) (amended by 1989 Nev. Stat. ch. 32, sec. 1, at 60) (there is no implied warranty of merchantability or fitness with blood products, bodily tissue, or organs). See 1985 PAC. L. J. REV. NEV. LEGIS. 151 (liability arises only for acts of negligence or willful misconduct in the transmission of infectious disease through blood transfusion or blood product injection). See, e.g., *Zichichi v. Middlesex Memorial Hosp.* 204 Conn. 399, 409-10, 528 A.2d 805, 806 (1987) (classifying the transfer of blood as a medical service pursuant to Connecticut General Statute § 19a-280).

3. 1989 Nev. Stat. ch. 32, sec. 1, at 60 (amending NEV. REV. STAT. § 460.010).

Torts; defense of residence

NEV. REV. STAT. § 41.— (new).

SB 215 (Malone); 1989 STAT. CH. 759

Chapter 759 creates a presumption that a person lawfully in a residence,¹ who uses deadly force² against an unlawful intruder,³ is acting in reasonable fear⁴ of imminent death or bodily injury if the occupant has reason to believe that an unlawful entry occurred.⁵ Under these circumstances, the occupant may not be held liable in personal injury⁶ or wrongful death⁷ actions, unless the other party

1. See 1989 Nev. Stat. ch. 759, sec. 1, at 1798 (enacting NEV. REV. STAT. § 41.—) (definition of residence includes any building, vehicle, trailer, or boat designed or intended for occupancy as a residence).

2. See *id.* (likely to cause death or bodily injury).

3. See *id.* (defined as a person committing burglary or invasion of the home). See NEV. REV. STAT. § 205.060 (1987) (definition of burglary).

4. Reasonable fear sufficient to justify a homicide requires that the defendant be motivated to act by circumstances sufficient to excite the fear of a reasonable person, and not for a revenge motive. *Id.* § 200.130 (1987). A justifiable homicide is not criminally punishable. *Id.* § 200.190 (1987).

5. 1989 Nev. Stat. ch. 759, sec. 1, at 1798 (enacting NEV. REV. STAT. § 41.—).

6. See NEV. REV. STAT. § 41.130 (1987) (liability of persons who negligently or wrongfully cause injury).

7. See *id.* § 41.085 (1987) (action maintainable by heirs or personal representatives on behalf of decedent).

overcomes the presumption of reasonable fear by clear and convincing evidence.⁸

DMT

8. 1989 Nev. Stat. ch. 759, sec. 1, at 1798 (enacting NEV. REV. STAT. § 41.____). See generally Tomeo, *The Deadly Force Act: New Jersey's Attempt to Protect the Homeowner from Intrusion*, 11 SETON HALL LEGIS. J. 403 (1988) (analysis of New Jersey and Colorado statutes expanding an occupant's right to use force to repel an intrusion).

Torts; emergency medical services

NEV. REV. STAT. § 41.505 (amended).
SB 52 (Rawson); 1989 STAT. Ch. 19

Under existing law, a physician¹ or nurse² rendering³ emergency care gratuitously and in good faith⁴ at the scene of an emergency,⁵ or while transporting an injured person from an emergency, is not liable for civil damages except for an act or omission amounting to gross negligence.⁶ Chapter 19 extends this immunity to emergency medical attendants⁷ or registered nurses obeying instructions from a physician or registered nurse.⁸ A physician or nurse is not excused from liability if the negligence occurs in a licensed medical facility⁹ and the injured person was previously a patient.¹⁰

RRH

-
1. See NEV. REV. STAT. § 630.014 (1987) (definition of physician).
 2. See *id.* §§ 632.016 (1987) (definition of licensed practical nurse), 632.019 (1987) (definition of registered nurse).
 3. See *id.* § 41.505 (1987) (rendering includes giving instruction or providing supervision).
 4. See *Hulse v. Sheriff of Clark*, 88 Nev. 393, 398, 498 P.2d 1317, 1320 (1972) (defining good faith as good intent and the honest exercise of the physician's best judgment as to the needs of the patient).
 5. See NEV. REV. STAT. § 632.015 (1987) (definition of emergency).
 6. *Id.* § 41.505 (1987). See *id.* § 41.500 (1987) ("Good Samaritan" statute limiting liability to gross negligence). See generally *Good Samaritans and Liability for Medical Malpractice*, 64 COLUMBIA L. REV. 1301 (general discussion of good samaritan laws).
 7. See NEV. REV. STAT. §§ 450B.025, 450B.050, 450B.065, 450B.070, 450B.085 (1987) (emergency medical attendant means person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician).
 8. 1989 Nev. Stat. ch. 19, sec. 1, at 21 (amending NEV. REV. STAT. § 41.505).
 9. See NEV. REV. STAT. § 449.0151 (1987) (definition of medical facility). See also *id.* §§ 449.037 (1987) (standards for licensing of medical facility), 449.040 (1987) (application for license to operate facility).
 10. 1989 Nev. Stat. Ch. 19, sec. 1, at 21 (amending NEV. REV. STAT. § 41.505).