

Introduced by

Senators Hogan, Braunberger, Kreun, Lee

1 A BILL for an Act to amend and reenact section 32-03.3-02 of the North Dakota Century Code,
2 relating to the personal liability of charitable organization employees; and to provide for
3 application.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 32-03.3-02 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **32-03.3-02. Liability of charitable organizations - Personal liability of employees -**
8 **Limitations - Statute of limitations.**

- 9 1. ~~A charitable organization may be only held liable for money damages for a personal~~
10 ~~injury or property damage proximately caused by the negligence or wrongful act or~~
11 ~~omission of an employee acting within the employee's scope of employment~~An action
12 for money damages for a personal injury or property damage proximately caused by
13 the alleged negligence, wrongful act, or omission of an employee of a charitable
14 organization occurring within the scope of the employee's employment must be
15 brought against the charitable organization. If there is any question concerning
16 whether the alleged negligence, wrongful act, or omission occurred within the scope of
17 employment, the employee may be named as a party to the action and the issue may
18 be tried separately. A charitable organization shall defend the employee until the court
19 determines the employee was acting outside the scope of the employee's
20 employment.
- 21 2. An employee is not personally liable for money damages for injuries when the injuries
22 are proximately caused by the negligence, wrongful act, or omission of the employee
23 acting within the scope of the employee's employment.

1 3. An employee may not be held liable in the employee's personal capacity for acts or
2 omissions of the employee occurring within the scope of the employee's employment
3 unless the acts or omissions constitute reckless or grossly negligent conduct, or willful
4 or wanton misconduct.

5 a. An employee may be personally liable for money damages for injuries when the
6 injuries are proximately caused by the negligence, wrongful act, or omission of
7 the employee acting outside the scope of the employee's employment. The
8 plaintiff in such an action bears the burden of proof to show by clear and
9 convincing evidence that the employee was either acting outside the scope of the
10 employee's employment or the employee was acting within the scope of
11 employment in a reckless, grossly negligent, willful, or wanton manner. An
12 employee may be liable for punitive or exemplary damages.

13 b. The extent to which an employee may be personally liable under this section and
14 whether the employee was acting within the scope of employment must be
15 specifically stated in a final judgment.

16 4. The liability of the charitable organization under this chapter is limited to a total of two
17 hundred fifty thousand dollars per person and one million dollars for any number of
18 claims arising from any single occurrence. The charitable organization may not be
19 held liable, or be ordered to indemnify an employee held liable, for punitive or
20 exemplary damages.

21 3.5. An action brought under this chapter must be commenced within the period provided
22 in chapter 28-01.

23 **SECTION 2. APPLICATION.** This Act applies to civil actions filed after July 31, 2023.