



# Immunity From Civil Liability for Emergency Care

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Wisconsin law grants immunity in various contexts in which a person's actions or inactions might otherwise result in civil liability, such as payment of damages or compliance with a court order. Immunity laws are enacted to encourage aid to others in emergent situations and thus are commonly referred to as "Good Samaritan laws." This issue brief describes specific Wisconsin statutes affording immunity from civil liability to persons in circumstances where aid to others may commonly arise, including at the scene of an emergency, while working at a school, through use of an automated external defibrillator (AED), or by forcible entry into a vehicle.<sup>1</sup>

## CARE AT THE SCENE OF AN EMERGENCY OR ACCIDENT

Given its codification in the early 1970s, s. [895.48\(1\)](#), Stats., is often considered Wisconsin's traditional "Good Samaritan" statute. It provides immunity from civil liability for acts or omissions by any person who renders emergency care at the scene of an emergency or accident in good faith. For purposes of this statute, the term "emergency care" refers to the initial evaluation and immediate assistance, treatment, and intervention at the scene of an emergency before care can be transferred to professional medical personnel. A "scene of any emergency" includes not only the location where an incident or injury occurred, but also the place to which an injured person moves.<sup>2</sup>

However, on-duty health care professionals rendering emergency care may not claim the immunity described above. Specifically, s. [895.48\(1\)](#), Stats., does not apply when health care professionals render emergency care for compensation and within the scope of their usual and customary employment or practice at, or enroute to, a hospital or other institution equipped with hospital facilities, at the scene of any emergency or accident, or at a physician's office.<sup>3</sup>

## HEALTH CARE BY MEDICAL PERSONNEL AT ATHLETIC EVENTS

Wisconsin law provides immunity for medical professionals in other contexts, such as when providing voluntary health care at certain athletic events. Under s. [895.48\(1m\)](#), Stats., various types of medical professionals<sup>4</sup> are immune from civil liability for acts or omissions in rendering voluntary health care to a participant in an athletic event or contest sponsored by a school, nonprofit, or public entity.<sup>5</sup> To claim immunity, all of the following conditions must apply: (1) the health care is rendered at the site of the event or contest, during transportation to a health care facility from the event or contest, or in a locker room or similar facility immediately before, during, or after the event or contest; and (2) the medical professional was not compensated for the health care, other than reimbursement for expenses.

## EMERGENCY CARE AND PRODUCT ADMINISTRATION BY SCHOOL PERSONNEL

Certain school personnel may claim immunity from civil liability resulting from emergency care involving students. Specifically, any public, private, or tribal school employee or volunteer who in good faith renders emergency care to a student of a public, private, or tribal school is immune from civil liability for acts or omissions in rendering such care.<sup>6</sup>

Though not limited to emergency situations, Wisconsin law also provides specified school personnel with immunity from civil liability for acts or omissions relating to the administration of certain products to students, such as nonprescription drug products, prescription drugs, opioid antagonists, epinephrine, and glucagon. However, school personnel must comply with requirements specific to each type of product's administration in order for the immunity to apply. For example, depending on the product, state law may require personnel to obtain parental consent, call "911" as soon as practicable, use products in original packaging, or successfully complete prior training relating to the product.<sup>7</sup>

## EMERGENCY CARE BY USE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR

With some exceptions, Wisconsin law provides various persons with immunity from civil liability for acts or omissions relating to rendering emergency care in good faith by use of an AED to an individual who appears to be in cardiac arrest. Specifically, the following persons may claim immunity in this context:

- The person who rendered the care.
- The owner of the AED.
- The person who provided the AED for use, if the person ensures that the AED is maintained and tested in accordance with the manufacturer’s operational guidelines.
- Any person who provided training in the use of an AED to the person who renders care.

However, the immunity does not extend to any person whose act or omission constitutes gross negligence, to certain types of emergency service professionals, or to a health care professional who renders emergency care for compensation and in the scope of the professional’s employment or practice at a hospital, at the scene of an emergency or accident, or at other locations specified in statute.<sup>8</sup>

## ASSISTANCE BY FORCIBLE ENTRY INTO A VEHICLE

Wisconsin law also immunizes individuals from liability when assisting persons or domestic animals who may suffer harm in a vehicle. Specifically, a person is immune from civil liability for property damage or injury that results from the person’s forcible entry into a vehicle if all of the following apply:

- A person or a domestic animal was present in the vehicle and the actor had a good faith belief that the person or domestic animal was in imminent danger of suffering bodily harm unless the person or animal exited or was removed from the vehicle.
- The actor determined that the vehicle was locked and that forcible entry was necessary to enable the actor to enter the vehicle or to enable the person or animal to be removed from or to exit the vehicle.
- The actor dialed “911” or otherwise contacted law enforcement, emergency medical services, or animal control before forcibly entering the vehicle.
- The actor remained with the person or domestic animal until a law enforcement officer or certain types of emergency medical personnel arrived at the scene.
- The actor used no more force than the actor reasonably believed necessary to enter the vehicle in order to remove the person or animal or to allow the person or domestic animal to exit the vehicle.
- If the actor left the scene before the vehicle’s owner or operator returned to the scene, the actor placed a notice on the windshield of the vehicle containing certain information specified in statute.<sup>9</sup>

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<sup>1</sup> This issue brief provides a non-exhaustive summary of certain Wisconsin statutes providing immunity from civil liability. Many other statutes provide immunity from liability in an array of contexts, with many located in [ch. 895](#), Stats., though others exist throughout the statutes. While many immunity provisions shield a person from civil liability, state law provides protection from criminal liability in certain settings, as well. [See, e.g., s. [961.443](#), Stats. (providing immunity from criminal prosecution for certain crimes to persons who aid another in certain overdose situations).]

<sup>2</sup> *Mueller v. McMillan Warner Ins. Co.*, 2006 WI 54.

<sup>3</sup> s. [895.48\(1g\)](#), Stats. This statute also contains an exception for employees trained in health care.

<sup>4</sup> The statute specifies the types of health care professionals to whom it applies. [See, s. [895.48\(1m\)\(a\)](#), Stats.]

<sup>5</sup> The athletic event or contest must generally be sponsored by a nonprofit corporation, a private school, a tribal school, a school district, a local unit of government, or certain institutions of higher education. [See, s. [895.48\(1m\)\(a\)](#), Stats.]

<sup>6</sup> s. [118.29\(3\)](#), Stats. The statute describes the specific types of school personnel to whom the immunity applies and specifies that it does not apply to health care professionals. Also, the statute clarifies its relationship with the other, more general “Good Samaritan” statute, by stating that its provisions are “in addition to and not in lieu of that provided under s. 895.48(1).”

<sup>7</sup> s. [118.29\(2\)](#) and (4) to (6), Stats.

<sup>8</sup> s. [895.48\(4\)](#), Stats.

<sup>9</sup> s. [895.484](#), Stats.