

DUTY OVERVIEW:

Duty in the Protection of Others

- * There is no duty of care for nonfeasance (omission to act).
- * One who begins to act is thereby placed under a duty to act reasonably.
- * In determining the standard of conduct for negligence, if a person has knowledge, skill, or even intelligence superior to that of an ordinary person, the law will demand (of the person) conduct consistent with it.

Professional Standard: An individual with **special skills and knowledge** in a certain area is required to exercise that knowledge and skill ordinarily possessed by a member of that profession in good standing.

Emergency Situation: A duty is imposed to act as a reasonable person would under the same emergency.

SPECIAL SITUATIONS GIVING RISE TO DUTY TO AID OR PROTECT

Common Carrier

- * Under a special duty to passengers.

Innkeeper

- * Under a special duty to his or her guests.
- * Duty requires the use of *reasonable care* to prevent not only conduct which is negligent but also physical attacks and thefts of property.

Possessors of Land

- * He or she who holds it open to the public has a duty to members of the public who enter in response to his invitation.

Custody Keepers

- * When a person takes another into custody voluntarily or as required by law and deprives him of his normal ability to protect himself, he takes on a duty of care.

DUTY TO CONTROL CONDUCT OF 3RD PERSONS

- * No duty to control the conduct of 3rd person as to prevent him from causing physical harm to the other UNLESS

1. A special relationship exists between the actor and the 3rd person which imposes a duty upon the actor to control the 3rd person's conduct, OR

2. A special relationship exists between the actor and the other person which gives the other person a right to protection.

* Parent/child, employer/employee, Dr./patient, teacher/student.