

**EXTENT OF TORT LIABILITY AMONG
NONPROFIT SPORTS ORGANIZATIONS
IN HAWAII**

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May 1988

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State Capitol
Honolulu, Hawaii 96813**

FOREWORD

The following study was prepared in response to House Resolution No. 395, H.D. 1, requesting a report on the frequency of tort claims filed against nonprofit sports organizations and their volunteers in Hawaii and other states.

The Legislative Reference Bureau thanks the individuals who assisted and participated in the study and the accompanying survey, the Department of Commerce and Consumer Affairs, the Department of Education, Volunteer Information and Referral Service, the Aloha United Way, the Municipal Reference and Records Center Library of the City and County of Honolulu, and the Hamilton Library, University of Hawaii.

Samuel B. K. Chang
Director

May 1988

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Chapter 1

INTRODUCTION

House Resolution No. 395, H.D. 1 (see Appendix A), requested that the Legislative Reference Bureau (Bureau) determine the extent of tort claims against nonprofit sports organizations and their volunteers in Hawaii and on the mainland.

The resolution observed that sports activities help to shape the character of the youth in the community and the volunteers who render this valuable service often do so without compensation. The resolution expressed concern that rising liability insurance premiums in many areas may prevent volunteers and nonprofit groups from continuing to provide after school, weekend, and other sports programs. The resolution requested that the Bureau prepare a report on the frequency of tort claims filed against nonprofit sports organizations and their volunteers in Hawaii and determine whether such suits have been increasing in number in recent years. For comparative purposes, the resolution also asked for information of tort claims filed against nonprofit sports organizations and volunteers in other states and how mainland jurisdictions of similar size and circumstances deal with the issue of civil liability of volunteers in nonprofit sports programs.

Scope of the Study

House Resolution No. 395 was referred to two House committees. The Committee on Judiciary described the purpose of the resolution as a request to study the frequency of tort claims filed against nonprofit sports organizations and their volunteers in Hawaii and other states. The Committee also acknowledged the valuable work provided by volunteers in nonprofit sports programs, particularly those programs that serve the youth. The resolution was referred to the Committee on Legislative Management without any changes (S.C.R. No. 1273).

The Committee on Legislative Management heard testimony from two individuals who supported the intent of the resolution (see Appendix B for copies of the testimonies). The Committee on Legislative Management amended H.R. No. 395 "to request a report on the scope of the problem and on legislative remedies in other states rather than an extensive study" (S.C.R. No. 1575).

The salient points made by the resolution and committee reports implied that the Legislature's concern was directed toward youth because many children in Hawaii come from households with two working parents and after-school activities help to keep the children occupied. The resolution also recognized the role of sports in developing children's character, self-esteem, and simple pleasures in play.

The objective sought by the resolution was to determine whether legislative protection would be needed for nonprofit sports organizations and their volunteers if the Bureau's study determined that the extent of tort liability was increasing to the point where sports services to youth could be curtailed or eliminated.

The Bureau has limited the scope of the study with respect to the universe of youth covered to a determination of tort claims made against nonprofit sports organizations and volunteers who serve primarily youth under age eighteen. While there are a number of sports activities provided for adults, nonprofit sports organizations tend to serve in loco parentis for a large number of children in after-school and weekend activities and these organizations depend upon volunteers, serving as coaches, officials, instructors, etc., to provide guidance, instruction, or other services connected with sports events.

Methodology

In order to determine the extent of tort claims made against nonprofit sports organizations and their volunteers locally, a survey form to elicit this

INTRODUCTION

information was designed and sent to 242 nonprofit sports organizations. These organizations were identified from a printout of 4,926 nonprofit organizations which file annual reports with the Department of Commerce and Consumer Affairs (DCCA) pursuant to chapter 415B, Hawaii Revised Statutes, also known as the "Hawaii Nonprofit Corporation Act".

A broad, subjective definition of "nonprofit sports organization" was used to select the 242 organizations. Organizations were selected in every case where a sport was named, such as judo, canoeing, etc., and where "youth" occurred in the name of the organization. In questionable cases, the researcher chose to err on the side of inclusion rather than exclusion in order to survey as many organizations as possible. Therefore, it was not unexpected to receive replies from organizations which were not sports organizations, but perhaps a booster club or a cultural and historical society.

In addition to the survey questionnaire of local sports organizations, the Bureau conducted interviews with the State Parks Division of the Department of Land and Natural Resources, the City and County of Honolulu's Parks Department, and the Department of Education (DOE) because many sports groups use the facilities, gymnasiums, and playing fields, which belong to these agencies. Since in a typical tort claim the landowner is also a named defendant, these interviews were intended to provide another way of identifying frequency of claims.

In order to determine the extent and experiences of tort claims made against mainland jurisdictions, the Bureau deviated slightly from the resolution, in that in the interests of time, instead of making a blanket survey of mainland municipalities or states, the national offices of sports organizations which serve youth in soccer, baseball, football, and youth recreation were surveyed for their national experiences. In addition, state laws and proposed legislation from sixteen states which attempted to provide civil immunity to sports volunteers were collected for comparative information about the nature of the immunity.

Organization of the Report

Chapter 1 is the introduction.

Chapter 2 presents the results of the Bureau's surveys, including the Hawaii experience and the national experience. Included in this section is a discussion of the common elements of legislation, both proposed and adopted, which have been collected for this report.

Chapter 3 concludes the report with findings and recommendations.

Goals of the Bureau's Survey

The Bureau's survey of all nonprofit sports organizations in Hawaii was intended to identify the kinds and frequency of tort claims made against volunteers who served these organizations to determine whether legislative concerns expressed in H.R. No. 395, H.D. 1, were reflected in the community. If the problem warranted legislative action, the Bureau's review of other states' legislation regarding civil immunity for volunteers would have generated suggested legislation for Hawaii.

Contrary to expectations expressed in the resolution, the results of the Bureau's survey indicated that the liability problem for nonprofit sports organizations and their volunteers do not appear of vital public concern. A discussion of the survey responses follows.

Chapter 2

SURVEY RESULTS

Part I. The Hawaii Experience

A total of 242 questionnaires were mailed to nonprofit sports organizations on March 7, 1988. The first reply was received by the Bureau on March 10, 1988. Six weeks later when the survey was closed on April 15, 1988, a total of fifty replies had been received, with an additional fourteen envelopes returned as undeliverable. Only thirty-four of the fifty replies were relevant to nonprofit sports organizations, as the remainder (sixteen) were from organizations which were not sports related. This resulted in a final return rate of only fourteen per cent. This small response rate seems to indicate that despite concerns expressed by the resolution, there is very little interest in and not too much concern over the liability issues among nonprofit sports groups in Hawaii.

Analysis of Returns

A majority of organizations carry general liability insurance covering property damage, personal injury, medical, dental, or accidental death. However, none of the responding organizations reported having had any claims. Two of these responses indicated claims which, upon closer examination, did not meet the requirements of this study. That is, in one case, a volunteer was the claimant (not the defendant) and in the other, the organization was not a sports group.

Nature of the Volunteers

Every organization responding relied heavily on unpaid volunteers, even if a few might have paid full-time or paid part-time volunteers. Parents and

other volunteers serve as coaches, advisors, officers of the organization, instructors, etc., and are the backbone of many of these sports activities. At least in this respect, the resolution is correct in its observation that these volunteers provide a valuable community service to the youth in Hawaii.

Nature of the Insurance Coverage

In only one case was a respondent (one of the thirty-four respondents) not sure whether insurance was provided or available for their organization's activities (however, for purposes of this survey this respondent was counted as having insurance because its response was "don't know, but we carry some sort").

Among the thirty-four responses, eight respondents had no insurance coverage while twenty-six carried some kind of insurance, including personal injury, property damage, medical, dental, and accidental death. In some cases, a parent organization like the Boy Scouts of America, or American Youth Soccer Association (AYSO) provided coverage for players, coaches, referees, and managers and the local club therefore might not have its own insurance policy. No generalizations could be drawn from those organizations which carry liability insurance and those which do not. Only one respondent without insurance reported that insurance was too expensive for the club, and that the club was aware of the risks of continuing without insurance of any kind. Only four of the eight organizations carrying no insurance reported that they have no particular method for liability protection. The remaining four of the eight clubs without insurance either require some type of waiver form, require parents of participating children to carry some kind of medical insurance, or rely on the umbrella policy of the parent organization.

Twenty-six organizations responding reported that they carry some form of liability insurance, although the respondent's level of knowledge regarding coverage such as limitations and exclusions varied. Three of the twenty-six organizations with insurance reported that they carried insurance, but did

SURVEY RESULTS

not know how much. Insurance coverages ranged from a reported high of \$1 million per occurrence to a low of \$100,000.

For an organization that provided general sports activity (rather than a specific sport like soccer), exclusions from coverage included exclusion of dangerous activities like skydiving, scuba, or other high risk activity. Another exclusion was personal injuries resulting from operation or ownership of a motor vehicle. This question was often left blank or answered with a "don't know" indicating that many respondents were unaware of their insurance policies' exclusions.

Waivers and Releases

Most of the organizations which have insurance nonetheless still required some waiver or release forms from the players or their parents. Only two organizations reported that they require no waivers of any kind. Table 1 provides a breakdown of the type of waiver or release selected by the respondents with insurance. Table 2 provides a similar breakdown for respondents without insurance.

Table 1
ORGANIZATIONS WITH INSURANCE
(N = 26)

| | |
|-------------------------|----|
| (a) No particular way: | 2 |
| (b) Waiver form: | 24 |
| (c) Medical release: | 11 |
| (d) Photo release form: | 2 |
| (e) Other: | 7 |

Note: Totals add up to more than number responding as more than one category could have been marked.

Table 2
ORGANIZATIONS WITHOUT INSURANCE
(N = 8)

| | |
|-------------------------|---|
| (a) No particular way: | 4 |
| (b) Waiver form: | 6 |
| (c) Medical release: | 1 |
| (d) Photo release form: | 1 |
| (e) Other: | 5 |

Note: Totals add up to more than number responding as more than one category could have been marked.

The most common type of waiver is the general one that reads:

In consideration of your accepting this entry, I the undersigned intending to be legally bound, hereby, for my child, myself, my heirs, executors, and administrators, waive and release any and all rights and claims for damages I may have against (name of organization), County of (name of county), State of Hawaii, and volunteers and officials assisting the (name of) committee, their representatives, successors and assigns, for any and all injuries suffered by me, or my child during this (event) or anything in any way connected with this (event). I attest and verify that my Child is physically fit to participate in this (event).

NAME: _____ SIGNATURE: _____

ADDRESS: _____ PHONE: _____

PARENT/LEGAL GUARDIAN SIGNATURE: _____

However, as Table 1 indicates, medical releases are also common. Among "other" ways an organization reported it protects itself from potential liability problems were: "inspecting equipment and grounds", "diligent reminding of volunteers (about liability)", and buying additional "per event" insurance which would cover accidents occurring during a specific event (for example, during a fun run).

SURVEY RESULTS

Nature of the Organizations Responding

A wide variety of sports organizations were surveyed by the original 242 addressees which were sent questionnaires. This included the typical organized group sports activities such as soccer, baseball, basketball, and football (see Appendix C for survey materials).

Contrary to expectations, the Bureau received more responses from the "other" category of sports enthusiasts. That is, responses received were primarily from groups involved in water sports like canoeing, snorkeling, swimming, sailing, body surfing, and other groups including acrobatics and gymnastics, golf, martial arts (kendo, judo, aikido), bowling, boxing, volleyball, and rodeo. On the other hand, fewer than five responses were received from each of the following categories: baseball, basketball, football, and soccer (see Table 3).

Table 3
NATURE OF SPORTS ACTIVITY

| | | | |
|-------------|---|---------|----|
| Baseball: | 4 | Soccer: | 5 |
| Basketball: | 3 | Other: | 28 |
| Football: | 4 | | |

Note: Total adds up to more than the number responding as more than one category could have been checked.

No distinguishing differences between organizations which had insurance and those which did not could be noted based on the survey results.

Other Observations

All ages were evenly distributed among responding organizations. Except for boxing where the participating youth must be at least fifteen years

old, most sports organizations provide services to a wide range of ages from kindergarten (age five) through high school (age eighteen).

Liability

The key reason for which this survey was developed, to determine whether or not there has been an increase in tort claims against nonprofit sports organizations and their volunteers, revealed that no organization which responded has had any claims due to injuries received by anyone (player, spectator, coach, etc.) as a result of any incident during any activity of the sports participants.

The small response rate of fourteen per cent makes it difficult to determine whether there is even a problem in Hawaii. If responses are taken at face value, one would be inclined to conclude that: (1) there is no liability problem among nonprofit sports organizations in Hawaii; or (2) if there is a problem, it is being handled adequately by insurance, the participants, negotiated settlements, and other means outside the tort litigation system.

Interviews with Landowners

Interviews with the Department of Education, City and County of Honolulu, and the Department of Land and Natural Resources all reported no recollection of claims against nonprofit sports organizations by an injured person.

Part II. The National Experience

The Bureau surveyed five national headquarters of organized youth sports groups including the American Youth Soccer Organization (AYSO), National Association of Police Athletic Leagues (PAL), Pop Warner Football,

SURVEY RESULTS

National Recreation and Parks Association, and American Alliance for Health, Physical Education and Dance. Only PAL and AYSO replied and PAL reported no claims. AYSO reported that about seven suits naming AYSO as a defendant have been filed per year and there are currently about twenty cases outstanding against AYSO. However, it is noteworthy that none of the claims against AYSO have named a volunteer as an individual defendant, only the AYSO as a corporate defendant.

Legislation from Mainland States

Since 1987 at least fifteen mainland states and Hawaii have considered the tort liability of volunteers in the sports field. The bills introduced into the Hawaii legislature did not pass and are included in this report as part of Appendix D which contains all legislative material received from states which considered this issue. Legislation in eight of the sixteen states became law: Arkansas, Colorado, Indiana, Louisiana, Minnesota, Nebraska, North Dakota, and Rhode Island.

Whether adopted or under consideration, these legislative efforts have the following common elements:

- (1) Volunteers who serve in nonprofit sports organizations without compensation (or for minimal expenses only) are not liable in damages for personal injury sustained by a participant, observer, etc., resulting from acts or omissions connected with the sports program, unless the acts are wilful, wanton, or grossly negligent;
- (2) Injuries sustained due to negligent operation of a motor vehicle are not exempted; and
- (3) Definitions for the following terms are usually provided: compensation, nonprofit organization, sports program, and volunteer.

TORT LIABILITY AMONG NONPROFIT SPORTS ORGANIZATIONS

Hawaii's proposed legislation from the Regular Session of 1987 followed the basic model found in other states. (See Table 4 for a comparison of basic provisions to be found in these states' legislation.)

Table 4
LEGISLATION (EITHER PROPOSED OR ENACTED)
PROVIDING IMMUNITY FOR CIVIL LIABILITY
FOR VOLUNTEERS IN SPORTS

| | ARKANSAS* | COLORADO* | CONNECTICUT | GEORGIA | HAWAII | ILLINOIS | INDIANA* | LOUISIANA* | MINNESOTA* | MISSISSIPPI | MISSOURI | NEBRASKA* | NEW HAMPSHIRE | NORTH DAKOTA* | RHODE ISLAND* | VIRGINIA |
|---|-----------|-----------|-------------|---------|--------|----------|----------|------------|------------|-------------|----------|-----------|---------------|---------------|---------------|----------|
| PROVISIONS | | | | | | | | | | | | | | | | |
| Immunity for specific volunteers, eg. coaches, instructors, umpires, etc. acting in good faith. | | X | X | | X | X | X | X | X | | X | X | X | X | X | |
| Immunity for volunteers in general. | X | | | X | | X | | | X | | | | X | | | |
| Immunity for nonprofit organizations. | | | | | X | X | | | | | | | | | | |
| Age limitation (for persons 18 years old and younger). | | X | | | X | | | | | | | | | ** | ** | |
| Definitions: | | | | | | | | | | | | | | | | |
| Compensation | | | | X | | X | X | | X | | X | | | X | X | |
| Nonprofit association | | | | | X | X | | | | | X | X | | X | X | |
| Sports program | | | | | X | X | X | | | | X | X | | X | X | |
| Volunteer | X | | | | X | | X | | | | | | | | | |
| ACTS NOT COVERED | | | | | | | | | | | | | | | | |
| Committed through gross negligence, bad faith, wanton misconduct. | X | X | | | X | X | X | | X | | X | X | X | X | X | |
| Relating to care and maintenance of real estate. | | | X | | | X | | | | | X | | | | | |
| Negligent operation of motor vehicle. | X | | | | X | X | X | | X | | X | | X | X | | |

*Adopted

**19 or younger

Chapter 3

FINDINGS AND RECOMMENDATIONS

Findings

1. The survey of Hawaii's nonprofit sports organizations indicates that the liability issue is not a concern at this time. Only twenty per cent of the organizations responded to the survey questionnaire and only fourteen per cent of the organizations responding were nonprofit sports groups.
2. Apparently liability insurance is both available and affordable for nonprofit sports groups as twenty-six out of thirty-four groups responding carry liability insurance and only one organization reported that insurance was too expensive.
3. A general waiver form and medical release form are the most commonly used releases. Organizations also remind their volunteers to check equipment and playing fields for potential hazards, and additional "per event" insurance is purchased by some groups for special events.
4. None of the responding organizations, whether insured or not, had experienced any claims made on behalf of an injured party against any volunteer associated with the organization.

Recommendation

The Bureau recommends that no legislative action be taken on this issue at this time.

APPENDIX A

HOUSE OF REPRESENTATIVES
FOURTEENTH LEGISLATURE, 1987
STATE OF HAWAII

H.R. NO.

395
H.D. 1

HOUSE RESOLUTION

REQUESTING A REPORT ON THE EXTENT OF TORT CLAIMS AGAINST
NONPROFIT SPORTS ORGANIZATIONS AND THEIR VOLUNTEERS IN
HAWAII AND ON THE MAINLAND.

WHEREAS, nonprofit sports organizations immeasurably contribute in positive ways to our society, helping shape the character of our youth and peoples as well as providing welcomed social activities; and

WHEREAS, these youth recreation programs run by volunteers in our community are important parts of the lives of many of our "keikis", as economic conditions force larger numbers of parents to work, leaving more children alone and unsupervised after school; and

WHEREAS, people willing to give of their time as volunteer coaches provide an invaluable service to the youth of our community, teaching them skills which enable them to participate in sports at a higher level of achievement, enhancing their self-esteem as well as providing them all the pleasures of organized play; and

WHEREAS, these volunteers also render a valuable service to the community as a whole by contributing to the development of our children, the foundation of our future; and

WHEREAS, in recent years our society has seemingly grown more and more litigious, as the assumption that every injury, regardless of its circumstance, is someone else's "fault" and hence should be recompensed has become widespread; and

WHEREAS, there is some concern that nonprofit sports organizations and the volunteers themselves may be the target of a growing number of such tort suits, and may therefore need some sort of legislative protection and a method to meet the rapidly rising liability insurance premiums in order to continue their good work; now, therefore,

BE IT RESOLVED that the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1987, requests the Legislative Reference Bureau to prepare a report on the frequency of tort claims filed against nonprofit sports organizations and their volunteers in Hawaii and other States to report whether such suits have been increasing in number in recent years, and to report how mainland jurisdictions of similar size and circumstances deal with the issue of tort protection for these organizations and volunteers; and

BE IT FURTHER RESOLVED that the Director of the Legislative Reference Bureau deliver this report to the Legislature at least twenty days prior to the convening of the Regular Session of 1988; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to the Director of the Legislative Reference Bureau.

APPENDIX B

OBARA, KIDWELL & COMPANY
Certified Public Accountants

SUITE 250, 700 BISHOP STREET
HONOLULU, HAWAII 96813
PHONE (808) 521-7844

TO: HOUSE OF REPRESENTATIVES, COMMITTEE ON LEGISLATIVE
MANAGEMENT

FROM: CHESTER M. OBARA, CPA

RE: HR 395, RELATING TO LIABILITY IN NONPROFIT SPORTS PROGRAMS

DATE: APRIL 16, 1987

My name is Chester Obara, and I am involved in the following nonprofit sports activities: Board member and coach in AYSO Region 381; Board Member of Pearl City Youth Complex; former Board member and manager in the Pearl City Community Little League; past President of the Leeward Oahu Jaycees (sponsor of sports activities); coach, Pearl City/Aiea Bobby Sox; member, West Oahu YMCA; past President of the Pearl City Industrial Invitational Slow Pitch League; and past participant in the Pearl City Makule Invitational Softball League.

I am in favor of HR 395 for the following reasons:

1. This resolution attempts to study the extent of personal liability when a person involves himself in a nonprofit sports activity.
2. This resolution is broad enough to cover not only youth, but adult and senior citizens activities, also.
3. This resolution will help to identify situations that are deserving of special consideration where the general public will benefit.
4. This resolution will answer some questions people may have regarding volunteering in a nonprofit sports programs with regard to their exposure to liability. Such questions have caused some potential volunteers to hesitate participating due to uncertainty on this issue.

5. This resolution will hopefully be the start of legislation to cover nonprofit sports activities.

6. This resolution will address the liability problem of those financial backers and organizers without whom most programs would not be in existence.

In drafting future legislation concerning those involved in nonprofit sports programs, I believe legislators should consider exempting those involved in nonprofit sports programs from liability. An exempted person should be one willing to render services without remuneration or expectation of remuneration.

I respectfully submit this testimony for your consideration and pray that this resolution will lead to reducing or eliminating the high cost of liability insurance and minimizing frivolous lawsuits.

Testimony of Richard Karamatsu In Favor of H.R. 395.

April 17, 1987

Dear Chairman Fukunaga and Members
of the Committee on Legislative Management:

I am Richard Karamatsu, Assistant Regional Commissioner for American Youth Soccer Organization (AYSO) Region 381 (Pearl City). I speak in favor of House Resolution 395 as it affects me as a parent, commissioner and coach.

AYSO and other youth sports organizations are always searching for, and in need of, parent and other adult volunteers to help, participate in, and support our youth sports organizations. H.R. 395 is the first step toward reducing the apprehension and reservations that present and potential volunteers may have in helping youth sports programs. This resolution should hopefully address also the high cost of liability and liability insurance premiums for both City and State recreational facilities.

These youth sports programs provide a tremendous service to our communities by providing positive spare time activities for our youth. Imagine the negative activities these youths can get involved in if it were not for these youth programs.

For these reasons, I feel that the passage of House Resolution 395 is highly desirable and beneficial for our community and State as a first step in helping reduce costs and increasing participation in these valuable programs.

Samuel B. K. Chang
Director

APPENDIX C



LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol
Honolulu, Hawaii 96813
Phone (808) 548-6237

March 8, 1988

3829-A

Dear Sir:

In 1987 the Hawaii State Legislature asked the Legislative Reference Bureau to study the extent of tort claims against nonprofit sports organizations and their volunteers in Hawaii and on the mainland. In our effort to collect data and information on this problem, we are surveying local organizations which we believe might be affected by the liability problem. We identified your name and organization from a variety of lists of community sports organizations, and hope that you can answer these questions with regard to your organization in Hawaii.

We would appreciate your taking a few minutes to answer our enclosed questionnaire and offering us your insights into this problem. A stamped, self-addressed return envelope is enclosed for your convenience.

If you have any questions about the questionnaire, please feel free to call me at 548-6237.

Aloha,

Jean K. Mardfin
Researcher

JDK:mm
Enc.

Aiea Pop Varner Ass'n
96-266 Waiawa Rd., #52
Pearl City, HI 96782

Aikido of Honolulu
3224 Waiālae Ave.
Honolulu, HI 96816

Aikido Ohana
47-477 Kialua St.
Kaneohe, HI 96744

American Youth Soccer
Org.
5403 W. 138th St.
Bavthorne, CA 90250

American Surfing Ass'n.
2131 Kalakaua Ave.
Honolulu, HI 96815

American Youth Sports
Foundation-Hawaii, Inc.
3470 Waiālae Ave., Rm. 6
Honolulu, HI 96816

Big Brothers/Big Sisters
of Honolulu
200 N. Vineyard Blvd.
#301
Honolulu, HI 96817

Big Brothers/Big Sisters
of Maui
L. Walter Cameron Center
95 Mahalani
Wailuku, HI 96793

Big Brothers/Big Sisters
of Big Island
74-5543 Kaivi, #A
Kailua-Kona, HI 96740

Big Island Amateur Boxing
Ass'n
c/o 1022 Awaie Place
Hilo, HI 96720

Big Island Equestrian
Events, Inc.
797 Kanoelehua Ave.
Hilo, HI 96720

Big Island Junior Amateur
Boxing
349 Kapiolani St.
Hilo, HI 96720

Boy Scouts of America
Aloha Council
42 Puia Rd.
Honolulu, HI 96817

Boys' & Girls' Club of
Honolulu
1704 Waiola St.
Honolulu, HI 96826

Boys' Club of Hilo
100 Kamakahonu St.
Hilo, HI 96720

Central Maui Youth Center
P. O. Box 637
Puunene, Maui, HI 96784

Central Oahu Youth
Services Ass'n
66-528 Haleiwa Rd.
Haleiwa, HI 96712

Enchanted Lake Youth
Baseball, Inc.
645 Ohiki Place
Kailua, HI 96734

Girl Scouts Council of
the Pacific, Inc.
c/o Hawaiian Trust Co.,
Ltd.
Box 3170
Honolulu, HI 96802

HI Amateur Windsurfing
Ass'n Int'l
33 Kamani Place
Kailua, HI 96734

HI Ass'n, for Health,
Physical Ed. & Rec.
1939 St. Louis Drive
Honolulu, HI 96816

Hawaii Gateball Ass'n
2373 Kuahea St.
Honolulu, HI 96816

Hawaii Hanin Sports Ass'n
1314 S. King St.
Suite 1254
Honolulu, HI 96814

HI International Disabled
Sports Ass'n
Century Center, Suite 754
1750 Kalakaua Ave.
Honolulu, HI 96826

HI International Sports
Foundation
1188 Bishop St., #1111
Honolulu, HI 96813

HI Island Archery Club
84 Mamu St.
Hilo, HI 96720

Hawaii Judo, Inc.
94-155-C Leovaena St.
Waipahu, HI 96797

Hawaii Junior Amateur
Athletic
1560 Kānalui St.
Honolulu, HI 96816

Hawaii Junior Golf Ass'n
505 Kamani St.
Honolulu, HI 96813

Hawaii Kai Youth
Baseball, Inc.
7548 Mokunoio Place
Honolulu, HI 96826

Hawaii Kai Youth
Basketball League
765 Ahukini St.
Honolulu, HI 96825

Hawaii Kai Youth Org.
961 Kakiwa Place
Honolulu, HI 96825

Hawaii Police Athletic
League
c/o Capt. Gordon Lee, BPD
P. O. Box 22623
Honolulu, HI 96822

Hawaii Pony Baseball,
Inc.
632 Kulioouou Rd.
Honolulu, HI 96821

Hawaii Soccer Coaches
Ass'n
841 Bishop St., #1800
Honolulu, HI 96813

Hawaii Special Olympics
Box 3295
Honolulu, HI 96801

Hawaii State Pop Varner
Council
c/o Mr. Norman Aveau
445 N. Kānalui
Kailua, HI 96734

Hawaii Wheelchair
Athletic Ass'n
c/o James Little, Ph.D.
1337 Lower Campus Rd.
Honolulu, HI 96822

Hawaii Youth Soccer Ass'n
989 Dillingham Blvd.
Honolulu, HI 96817

Hawaiian Island Water
Polo
2448 Sonoma St.
Honolulu, HI 96822

Hawaiian Sporting Ass'n
354 Hahani St.
Kailua, HI 96734

Judo Black Belt Ass'n of
Hawaii
Box 22411
Honolulu, HI 96822

Kailua Junior Windsurfing
Club
33 Kamani Kai Place
Kailua, HI 96734

Kailua United Soccer
Club, Inc.
1365 Kina St.
Kailua, HI 96734

Kailua Youth Athletic
Club
c/o Mr. John A. Chanin
4 South King St.
Honolulu, HI 96813

Kānalui Little League,
Inc.
Box 1872
Kailua, HI 96734

Kaioala Canoe Club
Box 3502
Lihue, HI 96766

Kalihi-Palama Immigrant
Service Center
720 N. King St.
Honolulu, HI 96817

Kamuela Community Hall
Box 1662
Kamuela, HI 96742

Kaneohe Aikido Club
Box 1173
Kaneohe, HI 96744

Karate Ass'n of Hawaii
2232 Kapiolani Blvd.
#1401
Honolulu, HI 96826

Kauai County Young
Women's Ass'n
3094 Elua St.
Lihue, HI 96766

Kauai Junior Golf Ass'n
3197 Uluhui St.
Lihue, HI 96766

Kauai Youth Board
4583 Laukōna St.
Lihue, HI 96766

Keauu Child Care and
Youth Center
Box 876
Keauu, HI 96749

Kihei Youth Center
Box 1722
Kihei, HI 96753

Kohala Community Athletic
Ass'n
Box 1161
Kapāau, HI 96755

Kokokahi Gym Team Ass'n
Box 1247
Kailua, HI 96734

Koloa Youth Baseball
Ass'n
Box 31
Koloa, HI 96756

Kona Junior Golf Ass'n
Box 811
Kealahēkua, HI 96750

Kona Junior Tennis Club
Box 1825
Kealahēkua, HI 96750

Oahu Youth Soccer Org.
1483 Mahiole St.
Honolulu, HI 96819

Olomana Youth Athletic
Club
630 Olomana St.
Kailua, HI 96734

Pacific Wheelchair Tennis
Ass'n
1909 Ala Wai Blvd., Ste.
1507
Honolulu, HI 96815

Pahoa Pop Varner Pee Vee
League
P. O. Box 1553
Pahoa, HI 96778

Palama Settlement
810 N. Vineyard Blvd.
Honolulu, HI 96817

Palolo Little League
1421 18th Ave.
Honolulu, HI 96816

Pearl City Aikido Club
P. O. Box 1567
Pearl City, HI 96782

Pearl City Little League
P. O. Box 65
Pearl City, HI 96782

Pearl City Youth Complex
P. O. Box 1188
Pearl City, HI 96782

Pearl Harbor Swim Club
P. O. Box 6021
Honolulu, HI 96818

Sports Acrobatic Hawaii
P. O. Box 27832
Honolulu, HI 96827

Uluniu Swimming Club
2107 Atherton Road
Honolulu, HI 96822

United States of America
Amateur Boxing Foundation
Hawaii Ass'n
1461-B Kam IV Road
Honolulu, HI 96819

Waikiki Community Center
310 Paoakalani Ave.
Honolulu, HI 96815

Vailani Canoe Club
395 Todd Ave.
Hilo, HI 96720

Vailuku Junior Tennis
Club
P. O. Box 240
Vailuku, HI 96793

Vaimanalo Canoe Club
P. O. Box 230
Vaimanalo, HI 96795

Vaimoa Gymnastics Club
P. O. Box 1808
Kamuela, HI 96743

Vaipio Athletic Ass'n
c/o Lloyd Hochberg, Jr.
Law Office of
Paul A. Tomar
841 Bishop St., Ste. 2207
Honolulu, HI 96813

Vanderers Athletic Club
of Hilo
c/o 14 Kahema St.
Hilo, HI 96720

Vest Hawaii Youth Soccer
Org.
Box 5425
Kailua-Kona, HI 96740

Vest Kauai Midget
Baseball League
Box 631
Eleele, HI 96705

Vest Maui Youth Athletic
Ass'n
1612 Ainakoa St.
Lahaina, HI 96761

Young Men's Christian
Ass'n of Honolulu
1441 Pali Hwy.
Honolulu, HI 96813

Young Men's Christian
Ass'n of Kauai
P. O. Box 1786
Lihue, HI 96766

Young Women's Christian
Ass'n of the Univ. of
Hawaii
1820 University Ave.
Honolulu, HI 96822

Catholic Youth Org.
P. O. Box 299
Hauula, HI 96717

Hawaii State Little
League
333 No. Kainalu
Kailua, HI 96734

Kokokahi YMCA
45-035 Kaneohe Bay Dr.
Kaneohe, HI 96744

Kaneohe Community &
Senior Center
Dept. of Parks & Rec.
45-613 Puohala St.
Kaneohe, HI 96744

Koolau Soccer Club
47-594 Ahuimanu Rd.
Kaneohe, HI 96744

Lanikai Canoe Club
P. O. Box 501
Kailua, HI 96734

Leahi Soccer Club
P. O. Box 10647
Honolulu, HI 96816

Leevard Judo Club
1716 Komo Mai Dr.
Pearl City, HI 96782

Lihue Aikido Club
3-3560-B Kuhio Hwy.
Lihue, HI 96746

Lincoln Wreckers Athletic
Club
c/o Mr. Rudy Legaspi
1154 Kumukoa St.
Hilo, HI 96720

Loa'a Outrigger Canoe
Club
47-357-B Ahuimanu Rd.
Kaneohe, HI 96744

Makakilo Little League
92-626 Aahualii St.
Makakilo, HI 96707

Mana'e Canoe Club
Box 1034
Molokai
Kaunakakai, HI 96748

Manoa Aquatics
3406 Loulu St.
Honolulu, HI 96822

Manoa Girls Athletic Club
2721 Kaaipu Ave.
Honolulu, HI 96822

Manoa Youth Baseball
League
c/o Manoa Rec. Center
2721 Kaaipu St.
Honolulu, HI 96822

Maui Aikido Ki Society
Box 724
Vailuku, HI 96793

Maui Bobby Sox Softball
League
Box 369
Puunene, HI 96784

Maui County Council of
the Boy Scouts of
America
200 Liholiho St.
Vailuku, HI 96793

Maui Family YMCA
Box 820
Vailuku, HI 96793

Maui Girls Rodeo Ass'n
Box 795
Makawao, Maui, HI 96768

Maui Pop Varners
Federation, Inc.
378 S. Mokapu St.
Kahului, HI 96732

Maui Wheelchair Sports
Ass'n
Box 284
Vailuku, HI 96793

Maui Youth Soccer Org.
55 S. Wakea Ave.
Kahului, HI 96732

Mililani Junior Golf
Ass'n
95-103 Kiopaa St.
Mililani, HI 96789

Moiliili Community Center
2535 S. King St.
Honolulu, HI 96826

Molokai Canoe Club
Box 767
Kaunakakai, HI 96748

Molokai Christian Center,
Inc.
Box 1229
Kaunakakai, HI 96748

Molokai Junior Golf Ass'n
Box 26
Maunaloa, HI 96770

Molokai Little League
Ass'n
Box 37
Ala Malama St.
Kaunakakai, HI 96748

North Shore Soccer Club
59-485 Pupukea Rd.
Haleiwa, HI 96712

Nuuanu Aikido Club
c/o Nuuanu YMCA
1441 Pali Hwy.
Honolulu, HI 96813

Oahu Junior Golf Ass'n
330 Honono St.
Honolulu, HI 96825

Oahu Pop Varner District
Federation
99-291 Ohenana Loop
Aiea, HI 96701

Special Olympics Hawaii
Box 3295
Honolulu, HI 96801

Sports Program
Richards St. YMCA
1040 Richards St.
Honolulu, HI 96813

Therapeutic Recreation
Center
Dept. of Parks & Rec.
650 S. King St.
10th Floor
Honolulu, HI 96813

Young Buddhists Ass'n of
Honolulu
1710 Pali Hwy.
Honolulu, HI 96813

Wheelchair Athletic Ass'n
Hawaii
Easter Seal Society
610 Green St.
Honolulu, HI 96813

Palama Settlement
810 N. Vineyard Blvd.
Honolulu, HI 96817

Beretania Community
Center
Dept. of Parks & Rec.
1290 Aala St.
Honolulu, HI 96817

Kalihi YMCA
1335 Kalihi St.
Honolulu, HI 96819

Girl Scouts Council of
the Pacific
1717 Akahi St.
Honolulu, HI 96819

Four-H Youth Program
c/o University of Hawaii
3050 Maile Way
Gilmore 124
Honolulu, HI 96822

Air Force Hickam Youth
Center
15th Air Base Wing
Building 502
Hickam, AFB 96853

Pearl Harbor Dependent
Activities Center
Kam Highway, Bldg. 138
Pearl Harbor, HI 96860

Armed Forces Dependent
Youth Activities
Recreation Services Dept.
Commander Naval Base
Box 110
Pearl Harbor, HI
96860-5020

Ass'n for Retarded
Children
3989 Diamond Head Road
Honolulu, HI 96816

Catholic Charities
250 S. Vineyard Blvd.
Honolulu, HI 96813

Hale Kipa
2006 McKinley St.
Honolulu, HI 96822

Kualoa-Heeia Ecumenical
Youth Key Project
47-200 Waihee Road
Kaneohe, HI 96744

Salvation Army
2950 Manoa Road
P. O. Box 620
Honolulu, HI 96809

Susannah Wesley Community
Center
1117 Kaili St.
Honolulu, HI 96819

Vaimanalo Teen Project
41-1347 Kalaniana'ole Hwy.
P. O. Box 410
Vaimanalo, HI 96795

Kuhio Paddle Club
408 Levers St., #C
Honolulu, HI 96815

Shobukan Judo Club
525-E Kunawai Lane
Honolulu, HI 96817

Mas Oyama's Kyokushin
Karate Ass'n
3137 Alika Ave.
Honolulu, HI 96817

Aloha Aquatics--Marlins
c/o Mr. Wayne Nakamoto
94-326 Akia Place
Mililani, HI 96789

Aloha State Ice Skating Club
1165 Kukila St.
Honolulu, HI 96818

American Jujitsu Inst.
1423 Akamai St.
Kailua, HI 96734

Anuenue Figure Skating Club
1451 Akupa St.
Kailua, HI 96734

Bulldog Basketball Backers
1117-A 9th Ave.
Honolulu, HI 96816

Bulls Soccer Club
375 Halaki St.
Honolulu, HI 96821

Central Kona Youth Ass'n
P. O. Box 1171
Kealahou, HI 96750

Cha 3 Kenpo Karate Brotherhood Ass'n
98-1222 Mahipua St.
Aiea, HI 96701

The Children's Center, Inc.
1832 Liliha St.
Honolulu, HI 96817

Chinese Catholic Club of Honolulu
1124 7th Ave.
Honolulu, HI 96816

Chinese Physical Culture Ass'n
P. O. Box 27211
Honolulu, HI 96827

Chinese Youths of Hawaii c/o Stephanie Ching
5339 Maunakea St.
Honolulu, HI 96821

Chun-Kai Tai Chi Club
2728 Puunui Ave.
Honolulu, HI 96817

Crusaders Wrestling Booster Club
1030 Wainiha St.
Honolulu, HI 96825

Hana Canoe Club
P. O. Box 397
Hana, Maui, HI 96713

Hawaii Council of Diving Clubs
P. O. Box 298
Honolulu, HI 96809

Hawaii Football Clinic
1601 Punahou St.
Honolulu, HI 96822

Hawaii Island YVCA
145 Ululani St.
Hilo, HI 96720

Hawaii Kendo Federation
98-1759 Nahale St.
Aiea, HI 96701

Hawaii Matsubayashi Karate Ass'n
1349 Aala St., #305
Honolulu, HI 96817

Hawaii Soccer Ass'n
989 Dillingham Blvd.
Honolulu, HI 96817

Hawaii State Golf Ass'n
1859 Alaveo St.
Honolulu, HI 96821

Hawaii High School Rodeo Ass'n
100 Pauahi St., Suite 204
Hilo, HI 96720

Hawaii Tai Chi Chuan Ass'n
P. O. Box 216
Mountain View, HI 96771

Hawaii Water Sports Council
2872 Pahoehe Pl.
Honolulu, HI 96817

Hawaii Wheelchair Tennis Ass'n
1335-A Moi Way
Honolulu, HI 96816

Hawaii Youth Services Volunteer Program
1134 Olovalu Way
Honolulu, HI 96825

Hawaii Canoe Racing Ass'n
c/o Mr. Michael Tongg
169 S. Kukui St.
Honolulu, HI 96813

Hawaiian Outrigger Canoe Club
1159 Keolu Drive
Kailua, HI 96734

Hawaiian Sailing Canoe Ass'n
155 Kaha St.
Kailua, HI 96734

Hawaiian Trail & Mountain Club
P. O. Box 2238
Honolulu, HI 96804

Hawaiian Warriors Canoe Team
1415 Dillingham Blvd., #205
Honolulu, HI 96815

Healani Canoe Club
3455 Campbell Ave.
Honolulu, HI 96815

Hilo Gymnastics Club
P. O. Box 4864
Hilo, HI 96720

Hilo Sailing Club
P. O. Box 1774
Hilo, HI 96721

Ho'opili Canoe Club
P. O. Box 838
Kaunakakai, HI 96748

Hodokan Judo Club
45-144 Avele Pl.
Kaneohe, HI 96744

Honokaa High School Athletic Boosters Club
P. O. Box 239
Honokaa, HI 96727

Honolulu Bodysurfing Club
474-B Kuliouou Rd.
Honolulu, HI 96821

Honolulu Canoe Club
92-644 Aahualii St.
Makakilo, HI 96707

Hualalai Archery Club
P. O. Box 3034
Kailua-Kona, HI 96745

Hui Lanakila Canoe Club
944 22nd Ave.
Honolulu, HI 96816

Ka Uhane Hui Kahi Outrigger Canoe Club
58-129 Vehiva Place
Sunset Beach, HI 96712

Kahana Canoe Club
P. O. Box 294
Lahaina, HI 96761

Kahana Village Youth Council
P. O. Box 185
Kaaawa, HI 96730

Kamehameha Swim Club
Barracudas, Inc.
1341 16th Ave.
Honolulu, HI 96816

Kaneohe Outrigger Canoe Club
45-119A Waikapoko Rd.
Kaneohe, HI 96744

Kaneohe Sports Council of the Kaneohe Boxing Club
45-660 Keahala Rd.
Kaneohe, HI 96744

Kaneohe Swim Ass'n
P. O. Box 644
Kaneohe, HI 96744

Kau-i-ke-aouli Canoe Club
P. O. Box 755
Keauhou-Kona, HI 96739

Kaiaikini Canoe Club
6530 Kipapa Rd.
Kapaa, Kauai, HI 96746

Keoua Honaunau Canoe Club
P. O. Box 592
Captain Cook, HI 96704

KI-Aikido Society of Honolulu
2003 Nuuanu Ave.
Honolulu, HI 96817

Kihei Canoe Club
P. O. Box 1131
Kihei, HI 96753

Koa Kai Canoe Club
45-552 Poliahu Place
Kaneohe, HI 96744

Koko Head District Park Ohana
423 Kaunakani St.
Honolulu, HI 96825

Koko Head Skeet Club
c/o Mr. Glenn Nakamura
2916 Date St., #9-1
Honolulu, HI 96816

Koloa Outrigger Canoe Club
P. O. Box 936
Koloa, HI 96756

Kona Sailing School
78-6976 Kuakini Hwy.
Kailua-Kona, HI 96740

Kualoa-Heeia Ecumenical Youth Project
47-200 Waihee Rd.
Kaneohe, HI 96744

Kuhio Surf Club
2170 Kuhio Ave.
Honolulu, HI 96815

Kukini Canoe Club
91-1004 Kuhina St.
Ewa Beach, HI 96706

Kula Weightlifting Gym
P. O. Box 114
Pukalani, HI 96788

Lahaina Canoe Club
P. O. Box 1244
Lahaina, HI 96767

Lahaina Community Swimming Pool
P. O. Box 12246
Lahaina, HI 96761

Leeward Kai Canoe Club
89-889 Nanakuli Ave.
Nanakuli, HI 96792

Makaha Alii's Football Ass'n
87-144 Keliikipi St.
Waianae, HI 96792

Makaha Canoe Club
P. O. Box 823
Waianae, HI 96792

Maui Bicycle Club
111 Hana Hwy.
Kahului, HI 96732

Maui Ocean Swim Club
P. O. Box T
Wailuku, HI 96793

Maui Youth & Family Services
P. O. Box 6
Paia, HI 96779

Moanalua Athletic Club
c/o 1649 Ala Aolani St.
Honolulu, HI 96819

Moiliili Athletic Club
1557 Paula Dr.
Honolulu, HI 96816

Moku O Hawaii Canoe Racing Ass'n
P. O. Box 681
Hilo, HI 96721

Moku O Keawe Region U.S. Volleyball Ass'n
101 Aupuni St., #116
Hilo, HI 96720

Molokai Boxing Ass'n
P. O. Box 677
Kaunakakai, HI 96748

Na Opio Canoe Clubs Ass'n
2407 Booth Rd.
Honolulu, HI 96813

Oahu AJA Baseball Ass'n
94-271 Hanalei Circle
Waipahu, HI 96797

Oahu Bowling Ass'n
2295 N. King St.
Honolulu, HI 96819

Oahu Hawaiian Canoe
Racing Ass'n
2536 Narcissus Pl.
Honolulu, HI 96816

Outrigger Canoe Club
2909 Kalakaua Ave.
Honolulu, HI 96815

Pegasus Soccer Club
709 Hahaione St.
Honolulu, HI 96825

Salt Lake Judo Ass'n
1154 Ala Aloalo St.
Honolulu, HI 96818

Shunyo Judo Club
1242 Young St.
Honolulu, HI 96814

Vai Nani Canoe Club
737-E 8th Ave.
Honolulu, HI 96816

Vaikalua Canoe Club
45-557-J Kealahala Rd.
Kaneohe, HI 96744

Vaimanalo Athletic Ass'n
41-730 Kamehameha Pl.
Vaimanalo, HI 96795

Vaimanalo Teen Project
P. O. 410
Vaimanalo, HI 96795

Vest Hawaii Surfing
Ass'n
75-5755 Alii Drive
Milua-Kona, HI 96740

Hilo Junior Golf Ass'n
577 Kupulau St.
Hilo, HI 96720

QUESTIONNAIRE ON SPORTS TORTS

We are interested only in responses from organizations which work predominantly with youngsters 18 years old and younger.

1. Name of your organization 242 sent out
2. Your name (person filling out questionnaire) 14 returned undeliverable
 Phone number _____ 15 not sports organization
26 insured
8 not insured
3. Your role (e.g., coach? fundraiser? board member? other):

| | | |
|---------------|-------------------|-----------------------------|
| Coach: 5 | Instructor: 8 | Totals more than 34 because |
| Fundraiser: 1 | Exec. Director: 4 | more than one category |
| Board: 27 | Advisor: 1 | marked. |
| Parent: 2 | Other: 1 | |
4. Number of years associated with the organization in any capacity:
 Low of 3 yrs. to high of 30 yrs.
5. How many volunteers are there in your organization:

| | | |
|----------------------------|----------------------------|---------------------------------|
| from | from | from low of 10 |
| Paid full-time? <u>0-3</u> | Paid part-time? <u>0-5</u> | Unpaid? <u>to high of 2000+</u> |
6. Does your organization carry liability insurance?
26 Yes 8 No _____ Don't know

If yes:

- a. What is the amount of coverage (i.e., limits)?

Low: \$100,000 per occurrence
 High: \$1,000,000 per occurrence

- b. What is not insured (i.e., exclusions)?

1. Ultrahazardous activity such as skydiving
2. Personal injuries resulting from operation/ownership of motor vehicle

May we have a copy of your policy?

7. How does your organization try to protect itself from liability suits?

- 6 (a) No particular way
- 29 (b) Require players or their parents to sign a waiver form
- 12 (c) Medical release form
- 2 (d) Photo release form
- 12 (e) Other method(s) (explain) Maintain, check equipment; remind
volunteers; per event coverage

May we have a copy of your waiver and release forms?

8. In your experience, have you had any law suit filed against your organization or any volunteers associated with your organization due to injuries received by anyone (player, spectator, coach, etc.) as a result of any incident during any activity of the sports participants.

None 34

Yes 0

Year n/a

Description of the incident:

9. What is the nature of your organization's sports activity (check more than 1 if appropriate)? Totals more than 34 because more than one category marked.

4 baseball

3 basketball

4 football

5 soccer

28 other (specify) water sports (sailing, canoeing, swimming, etc.), martial arts, golf, rodeo, gymnastics

10. What are the ages of your sports group (check more than 1 if appropriate)? Totals more than 34 because more than one category marked.

30 Elementary (5-12 years)

31 Junior high (12-15 years)

30 High school (16-18 years)

11. Does your organization belong to or report to a regional or a national organization, and if so, may we have its name and address?

Other Comments:

One organization reported insurance too expensive, and therefore group has no liability insurance.

APPENDIX D

Arkansas

ACT 390 1987

A Bill

State of Arkansas
76th General Assembly
Regular Session, 1987

HOUSE BILL 1112

By: Rep. Doug Wood
Rep. Clark

AS ENGROSSED 1/26/87
AS ENGROSSED 1/29/87

For An Act To Be Entitled

1 "AN ACT TO PROVIDE THAT QUALIFIED VOLUNTEERS SHALL NOT BE
2 CIVILLY LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE
3 RESULTING FROM ANY ACT OR OMISSION IN CARRYING OUT THEIR
4 VOLUNTEER ACTIVITIES; AND FOR OTHER PURPOSES."

5

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

7

8 SECTION 1. Declaration of Legislative Intent. Since the spirit of
9 voluntarism has long animated citizens of this State to give of their time
10 and abilities to help others, the State of Arkansas would be wise to ensure
11 that qualified volunteers shall not be civilly liable for personal injury or
12 property damage resulting from any act or omission in carrying out their
13 authority or responsibilities as volunteers. While there are no known recent
14 instances, in Arkansas, where a volunteer has been subjected to personal
15 liability for negligence in performing volunteer duties, and there are no
16 such cases presently known to be pending, the recent publicity generated in
17 relation to the perceived "insurance crisis" has heightened concern among many
18 who would provide volunteer services, thereby making it more difficult to pro-
19 vide certain important services, cultural and educational events, and other
20 opportunities to the citizens of the State of Arkansas through voluntary ser-
21 vices. This Act limits and defines the liability of volunteers in order to
22 diminish their concern with regard to personal liability associated with
23 volunteer work, in order that the State might maximize this important human
24 resource.

25

26 SECTION 2. This Act may be cited as the "Arkansas Volunteer Immunity
27 Act."

28

29 SECTION 3. Definitions. As used in this Act, the following terms shall
30 have the following meaning, unless another meaning may be clearly inferred

CLERK OF THE HOUSE

mih068

1 from the content:

2 (a) "Qualified volunteer" means any person who, of free will, provides
3 goods or services without financial compensation to or through any volunteer
4 agency in connection with a volunteer program.

5 (b) "Volunteer agency" means any volunteer program of all departments,
6 institutions and divisions of State government, community volunteer
7 organization or any not-for-profit corporation which has received a 501C3
8 designation from the United States Internal Revenue Service, other than one
9 established principally for the recreational benefit of its stockholders or
10 members.

11 (c) A "volunteer activity" means any activity within the scope of any
12 project, program, effort, or other regular activity sponsored by a volunteer
13 agency with the intent to effect a charitable purpose, or confer other public
14 benefit including, but not limited to, enhancement of the cultural, civic,
15 religious, educational, scientific or economic resources of the community.

16
17 SECTION 4. A qualified volunteer shall not be held vicariously liable
18 for the negligence of another in connection with or as a consequence of his or
19 her volunteer activities.

20
21 SECTION 5. A qualified volunteer shall not be liable in damages for per-
22 sonal injury or property damage sustained by one who is a participant in, or a
23 recipient, consumer or user of the services or benefits of a volunteer by
24 reason of any act or omission of a qualified volunteer in connection with the
25 volunteer except as follows:

26 (a) Where the qualified volunteer is covered by a policy of insurance, in
27 which case liability for ordinary negligence is limited to the amount of the
28 coverage provided;

29 (b) Where the qualified volunteer acts in bad faith or is guilty of
30 gross negligence;

31 (c) Where the qualified volunteer negligently operates a motor vehicle,
32 aircraft, boat, or other powered mode of conveyance; provided that if the
33 actionable conduct of the qualified volunteer is covered by a policy of liabi-
34 lity insurance, his liability for ordinary negligence shall be limited to the
35 amount of the coverage provided.

36 (d) Where the qualified volunteer negligently performs professional ser-

1 vices extended to an individual, which the qualified volunteer is licensed
 2 under State law to perform, including, but not limited to, legal, medical,
 3 engineering, and accounting services; provided that if the volunteer agency
 4 either provides or requires its professional volunteers to carry professional
 5 liability insurance in an amount customarily carried by a member of the pro-
 6 fession involved and if recipients of the professional services are clearly
 7 informed of the amount of coverage thus provided and the limitation of liabi-
 8 lity arising therefrom, liability for ordinary negligence in rendering such
 9 professional service shall be limited to the amount of coverage available or
 10 the amount required by the agency, whichever is larger. This exception does
 11 not apply to nurses or similar health care providers rendering health care
 12 services or other professionals rendering professional services to a govern-
 13 ment entity, business, or volunteer agency.

14

15 SECTION 6. Nothing in this Act shall be construed to limit the liability
 16 of a person acting outside the scope of the volunteer program.

17

18 SECTION 7. Nothing in this Act shall be construed to limit the liability
 19 of any volunteer agency.

20

21 SECTION 8. Emergency. It is hereby found and determined by the General
 22 Assembly that many persons contribute their valuable knowledge and services as
 23 unpaid volunteers in the promotion and performance of various programs admi-
 24 nistered by State and local agencies which are designed to meet the needs of
 25 the State and the several communities and that such persons should not be held
 26 civilly liable for their acts or omissions in carrying out their authority and
 27 responsibilities as volunteers if such acts or omissions were performed in
 28 good faith and did not constitute gross negligence; that the law does not now
 29 specifically provide such civil immunity; that the present state of the law
 30 results in inequitable burdens being placed upon such persons; and that this
 31 Act is immediately necessary to eliminate such inequity. Therefore, an
 32 emergency is hereby declared to exist and this Act being immediately necessary
 33 for the preservation of the public peace, health and safety shall be in full
 34 force and effect from and after its passage and approval.

35

36 3/25/87 *R. W. Clinton*
 APPROVED BY GOVERNOR 3

/s/ Doug Wood

mih068

SPEAKER OF THE HOUSE

COLORADO GENERAL ASSEMBLY



LEGISLATIVE COUNCIL

ROOM 029 STATE CAPITOL
DENVER, COLORADO 80203-1784
(303) 866-3521

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Sen. Jana Mendez
Sen. Ray Peterson
Sen. Ray Powers
Sen. Jeffrey Wells
Rep. Vickie Armstrong
Rep. Charles Berry
Rep. Chris Paulson
Rep. Gilbert Romero
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OFFICERS

Sen. Ted L. Strickland
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Rep. Carl B. "Bev" Bledsoe
Vice Chairman

STAFF

Charles S. Brown
Director
David Hite
Assistant Director

April 29, 1988

Jean Mardfin, Researcher
Legislative Reference Bureau
State of Hawaii
State Capitol
Honolulu, HI 96813

Dear Ms. Mardfin:

This letter is in response to your request for information on SB 80, 1987 legislative session, which provides immunity to volunteers of programs for youth. A copy of SB 80 is attached.

Under SB 80, subsections 2 (a) and (b) were added to section 13-21-116, C.R.S. Title 13 is on courts and court procedure, article 21 is on damages, and chapter 116 addresses immunity for volunteers assisting organizations for young persons.

The amount of committee time spent on the bill was minimal. Meeting summaries of both House and Senate hearings show no testimony was presented for or against the bill, aside from a brief explanation by the bill sponsor.

If you have further questions, please call me.

With best regards,

Carl E. Jarrett, Jr.
Research Associate

An Act

1987

SENATE BILL NO. 80.

BY SENATORS Bishop, DeNier, Donley, Allard, Durham, Fenlon, Fowler, Hopper, Rizzuto, Sandoval, Strickland, Traylor, Wells, Winkler, Gallagher, Groff, Martinez, Mendez, P. Powers, R. Powers, Schroeder, and Trujillo; also REPRESENTATIVES Schauer, Carpenter, Tebedo, Armstrong, Green, McInnis, Reeves, Swenson, Taylor-Little, Anderson, Berger, Bond, Dambman, Fish, Fleming, Lawson, Masson, Mutzebaugh, Norton, Pankey, Phillips, Ruddick, Rupert, Tucker, Ulvang, and S. Williams.

CONCERNING THE IMMUNITY FROM LIABILITY OF VOLUNTEERS WHO ASSIST ORGANIZATIONS RELATING TO YOUNG PERSONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-21-116, Colorado Revised Statutes, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13-21-116. Actions not constituting an assumption of duty - immunity for volunteers assisting organizations for young persons. (2.5) (a) No person who performs a service or an act of assistance, without compensation or expectation of compensation, as a leader, assistant, teacher, coach, or trainer for any program, organization, association, service group, educational, social, or recreational group, or nonprofit corporation serving young persons or providing sporting programs or activities for young persons shall be held liable for actions taken or omissions made in the performance of his duties except for wanton and willful acts or omissions; except that such immunity from liability shall not extend to protect such person from liability for acts or omissions which harm third persons.

(b) For the purposes of this subsection (2.5), "young persons" means persons who are eighteen years of age or

younger.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Ted L. Strickland
Ted L. Strickland
PRESIDENT OF
THE SENATE

Carl B. Bledsoe
Carl B. Bledsoe
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Marjorie L. Nielson
Marjorie L. Nielson
SECRETARY OF
THE SENATE

Lee C. Bahrych
Lee C. Bahrych
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

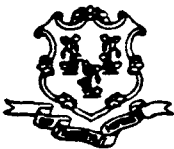
APPROVED April 30, 1987 at 8:58 am

Roy Romeo
Roy Romeo
GOVERNOR OF THE STATE OF COLORADO

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PAGE 2-SENATE BILL NO. 80

Connecticut General Assembly



ALLAN GREEN
DIRECTOR

JOINT COMMITTEE ON LEGISLATIVE MANAGEMENT
OFFICE OF LEGISLATIVE RESEARCH
(203) 566-8400

18-20 TRINITY STREET
HARTFORD, CONNECTICUT 06106

April 18, 1988

Ms. Jean Mardfin
Researcher
Legislative Reference Bureau
State Capitol
Honolulu, Hawaii 96813

Dear Ms. Mardfin:

In response to your letter requesting copies of two bills introduced in our General Assembly in 1987 regarding immunity for non-profit organizations, enclosed please find the copies requested. You will note that 7369 is a House Bill (our Senate Bills are always numbered less than 5000) and does not really seem to reflect your interest, but we are sending it anyway*. In checking their status we found that neither one got out of committee; enclosed also is what public hearing testimony there was on both.

This year another bill, HB 5745, was introduced on the same topic. It, too, seems to have died in committee; there also does not seem to have been any testimony in this year's public hearing. However, a copy is enclosed for your information.

if you want

Please let us know if we may be of further assistance.

Sincerely yours,

Susan M. Southworth
Legislative Librarian

/sms

* If it turns out that it was another SB that you wanted, let us know. Sending copies is no problem.

STATE OF CONNECTICUT
Raised Committee Bill No. 5745
Referred to Committee on Insurance and Real Estate

LCO No. 1932

Introduced by (INS)

General Assembly
February Session, A.D., 1988

AN ACT CONCERNING IMMUNITY FROM CIVIL LIABILITY FOR NONPROFIT
SPORTS ASSOCIATIONS AND VOLUNTEERS SERVING SUCH ASSOCIATIONS.

Be it enacted by the Senate and House of Representatives in
General Assembly convened:

Section 1. (NEW) Notwithstanding any provision of the general
statutes, no nonprofit sports association or any officer or
employee thereof, and no manager, coach, instructor, umpire,
referee or assistant serving as a volunteer in such association,
shall be liable for damage or injury caused in the sponsorship of
a sports program, in the discharge of duties or in the scope of
employment or authorized volunteer activities. This immunity
shall not apply to acts or omissions constituting gross, wilful
or wanton negligence.

Sec. 2. Nothing in this section shall be construed as
affecting or modifying the liability of such nonprofit
association or person for: Acts or omissions relating to the
transportation of participants in a sports program or others to
or from a game, event or practice; or acts or omissions relating
to the care and maintenance of real estate unrelated to the
practice or playing areas which such nonprofit associations or
persons own, possess or control.

Raised Committee Bill No. 5745

Page 2 of 2

STATEMENT OF PURPOSE: To provide immunity from civil liability
for a nonprofit sports association and volunteers serving such
associations.

[Proposed deletions are enclosed in brackets. Proposed
additions are all capitalized or underlined where appropriate,
except that when the entire text of a bill or resolution or a
section thereof is new, it is not capitalized or underlined.]

STATE OF CONNECTICUT

Raised Committee Bill No. 7369

Page 182

Referred to Committee on JUDICIARY

LCN No. 4556

Introduced by (JHD)

General Assembly,

January Session, A.D., 1987

AN ACT CONCERNING IMMUNITY OF DIRECTORS, OFFICERS AND COMMITTEE MEMBERS OF COMMON INTEREST COMMUNITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 52-557m of the general statutes is repealed and the following is substituted in lieu thereof:

Any person who serves as a director, officer or trustee of a nonprofit organization qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1954, as from time to time amended, OR AS A DIRECTOR OF A COMMON INTEREST COMMUNITY, AS DEFINED IN SUBDIVISION (7) OF SECTION 47-202, ELECTED BY THE UNIT OWNERS OF THE COMMON INTEREST COMMUNITY, OR AS AN OFFICER OR COMMITTEE MEMBER OF SUCH COMMON INTEREST COMMUNITY IF APPOINTED BY AN EXECUTIVE BOARD, THE MAJORITY OF WHOM ARE ELECTED BY THE UNIT OWNERS OF THE COMMON INTEREST COMMUNITY, and who is not compensated for such services on a salary or prorated equivalent basis, shall be immune from civil liability for any act or omission resulting in damage or injury occurring on or after [October 1, 1986] THE EFFECTIVE DATE OF THIS ACT, if such person was acting in good faith and within the scope of his official functions and duties, unless such damage or injury was caused by the wilful or wanton misconduct of such person.

Raised Committee Bill No. 7369 Page 292

STATEMENT OF PURPOSE: To provide immunity from civil liability for directors, officers and committee members of common interest communities.

[Proposed deletions are enclosed in brackets. Proposed additions are all capitalized or underlined where appropriate, except that when the entire text of a bill or resolution or a section thereof is new, it is not capitalized or underlined.]

STATE OF CONNECTICUT

Committee Bill No. 6693

Page 1

Referred to Committee on *Judiciary*

LCO No. 4929

Introduced by (JUD)

General Assembly,

January Session, A.D., 1987

AN ACT CONCERNING IMMUNITY OF VOLUNTEER ATHLETIC COACHES AND OFFICIALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

(NEW) Any person who serves as an athletic coach or official and who is not compensated for such services shall be immune from civil liability for any act or omission resulting in injury to a player or participant arising out of and in the course of his duties as coach or official, unless such injury was caused by the wilful and wanton misconduct or gross negligence of such coach or official or by the negligence of such coach or official in the operation of a motor vehicle.

STATEMENT OF PURPOSE: To grant immunity from civil liability to volunteer coaches and officials for ordinary negligence.

[Proposed deletions are enclosed in brackets. Proposed additions are all capitalized or underlined where appropriate, except that when the entire text of a bill or resolution or a section thereof is new, it is not capitalized or underlined.]
Co-Sponsors: REP. FOX, 144th Dist.; REP. YOUNG, 143rd Dist.

Georgia



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4/21/88
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OFFICE OF LEGISLATIVE COUNSEL

316 STATE CAPITOL
ATLANTA, GEORGIA 30334

(404) 656-5000

SEWELL R. BRUMBY
LEGISLATIVE COUNSEL

April 21, 1988

Ms. Jean Mardfin
Legislative Reference Bureau
State Capitol
Honolulu, Hawaii 96813

Dear Ms. Mardfin:

Enclosed is a copy of Code Section 51-1-20 of the Official Code of Georgia Annotated relating to the liability of persons serving charitable organizations and public entities while acting in good faith.

I hope it satisfies your inquiry. If I can be of further assistance, please let me know.

Sincerely,

Patsy D. Turner
Assistant Legislative Counsel

PDT/jeh

Enclosure

GENERAL PROVISIONS

51-1-20

51-1-19

51-1-19. Negligence by person given trust or confidence for consideration.

JUDICIAL DECISIONS

Standing to bring suit. — In a class action brought by a beneficiary of a trust holding a participating unit in the common trust fund of a bank, alleging that the bank made imprudent investments which resulted in losses, the class members, i.e., beneficiaries of other participating trusts, had standing, having possibly suffered in-

jury. The bank, which had an adverse interest in the litigation, was not required to bring suit against itself. *Meyer v. Citizens & S. Nat'l Bank*, 106 F.R.D. 356 (M.D. Ga. 1985).

Cited in *Citizens & S. Nat'l Bank v. Haskins*, 254 Ga. 131, 327 S.E.2d 192 (1985).

51-1-20. Liability of persons serving charitable organizations and public entities while acting in good faith.

(a) A person serving with or without compensation as a member, director, or trustee, or as an officer of the board without compensation, of any nonprofit hospital or association or of any nonprofit, charitable, or eleemosynary institution or organization or of any local governmental agency, board, authority, or entity shall be immune from civil liability for any act or any omission to act arising out of such service if such person was acting in good faith within the scope of his or her official actions and duties and unless the damage or injury was caused by the willful or wanton misconduct of such person.

(b) As used in this Code section, the term "compensation" shall not include reimbursement for reasonable expenses related to said services.

(c) This Code section shall not affect any immunity of any person arising from any source, whether or not such person may additionally be subject to and possess an immunity provided by this Code section. The immunity provided by this Code section shall be supplemental to any such existing immunity. (Ga. L. 1969, p. 709, § 1; Ga. L. 1987, p. 915, § 2; Ga. L. 1987, p. 986, § 1.)

The 1987 amendments. — The first 1987 amendment, effective July 1, 1987, rewrote this Code section. The second 1987 amendment, effective July 1, 1987, incorporated the changes made by the first 1987 amendment; designated the lan-

guage of this Code section as amended by the first 1987 amendment as subsection (a); inserted "of the board" and "or association" in subsection (a); and added subsections (b) and (c).

HOUSE OF REPRESENTATIVES
FOURTEENTH LEGISLATURE, 1987
STATE OF HAWAII

H.B. NO. 431

A BILL FOR AN ACT

RELATING TO TORTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§663- Exception to liability for volunteers in sports.

5 (a) Except as otherwise provided in this section, no:

6 (1) Person who as a volunteer renders services in a sports
7 program as a manager, coach, instructor, umpire, or
8 referee;

9 (2) Person who as a volunteer in a sports program assists a
10 manager, coach, instructor, umpire, or referee; and

11 (3) Nonprofit association, or any officer or employee
12 thereof, conducting or sponsoring a sports program;
13 shall be liable for any civil damages to a player or participant
14 resulting from the person's, association's, officer's, or
15 employee's acts or omissions, except for such damages as may
16 result from the person's, association's, officer's, or employee's
17

1 gross negligence or wanton acts or omissions.

2 (b) Subsection (a) shall apply not only to organized sports
3 competitions but also to practice and instruction in that sport.

4 (c) Nothing in this section shall be construed as affecting
5 or modifying the liability of any person or nonprofit association
6 for any of the following:

7 (1) Damage resulting from the negligent operation of a
8 motor vehicle; or

9 (2) Damage caused by a person permitting a sport
10 competition or practice to be conducted without
11 supervision.

12 (d) Nothing in this section shall be construed as affecting
13 or modifying the doctrine of assumption of risk or comparative
14 negligence on the part of a participant in a sports program.

15 (e) Nothing in this section shall apply to a coach,
16 manager, or official who provides services or assistance as part
17 of a public or private educational institution's athletic
18 program.

19 (f) In this section, unless a different meaning plainly is
20 required:

21 "Nonprofit association" means any entity organized as a
22 nonprofit corporation or nonprofit unincorporated association
23

H.B. NO. 431

under the laws of this State, or any entity which is authorized to do business in this State as a nonprofit corporation or unincorporated association under the laws of this State, including, but not limited to, any youth or athletic organization.

"Sports program" includes any program of organized athletics, including baseball, softball, football, basketball, soccer, tennis, and any other competitive sport formally recognized as a sport by the United States Olympic Committee as specified by and under the jurisdiction of the Amateur Sports Act of 1978, Public Law 95-606, 36 U.S.C. 371 et seq., the Amateur Athletic Union, or the National Collegiate Athletic Association.

"Volunteer" means a person who of the person's own free will provides goods or services to a sports program with no monetary or material gain; provided that this term shall not preclude:

(1) A reimbursement to a volunteer for reasonable expenses actually incurred, or to be incurred; or

(2) A modest honorarium to umpires or referees."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: Virginia Isbell

E7548

LRB/e6097

A BILL FOR AN ACT

RELATING TO TORT ACTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§663- Manager, coach, umpire, or referee; nonprofit
5 association negligence standard. (a) Except as provided
6 otherwise in this section, no person who, without compensation
7 and as a volunteer, renders services as a manager, coach,
8 instructor, umpire, or referee or who, without compensation and
9 as a volunteer, assists a manager, coach, instructor, umpire, or
10 referee in a sports program of a nonprofit association, and no
11 nonprofit association, or any officer or employee thereof,
12 conducting or sponsoring a sports program, shall be liable to any
13 person for any civil damages as a result of any acts or omissions
14 in rendering such services or in conducting or sponsoring such
15 sports program unless:

16 (1) The conduct of such person or nonprofit association
17
18

1 falls substantially below the standards generally
2 practiced and accepted in like circumstances by similar
3 persons or similar nonprofit associations rendering
4 such services or conducting or sponsoring such sports
5 programs; and

6 (2) It is shown that such person or nonprofit association
7 did an act or omitted the doing of an act which such
8 person or nonprofit association was under a recognized
9 duty to another to do, knowing or having reason to know
10 that such act or omission created a substantial risk of
11 actual harm to the person or property of another.

12 It shall be insufficient to impose liability to establish only
13 that the conduct of such person or nonprofit association fell
14 below ordinary standards of care.

15 (b) Nothing in this section shall be construed as affecting
16 or modifying the liability of such person or nonprofit
17 association for any of the following:

18 (1) Acts or omissions relating to the transportation of
19 participants in a sports program or others to or from a
20 game, event, or practice.

21 (2) Acts or omissions relating to the care and maintenance
22
23
24
25

1 of real estate unrelated to the practice of playing
2 areas which such persons or nonprofit associations own,
3 possess, or control.

4 Nothing in this section shall be construed as affecting or
5 modifying any existing legal basis for determining the liability,
6 or any defense thereto, of any person not covered by the standard
7 of negligence established by this section.

8 (c) Nothing in this section shall be construed as affecting
9 or modifying the doctrine of assumption of risk or contributory
10 fault on the part of the participant.

11 (d) As used in this section the following words and phrases
12 shall have the following meanings.

13 "Compensation" does not include reimbursement for reasonable
14 expenses actually incurred or to be incurred or, solely in the
15 case of umpires or referees, a modest honorarium.

16 "Nonprofit association" means an entity which is organized
17 as a nonprofit corporation or nonprofit unincorporated
18 association under the laws of this State or the United States or
19 any entity which is authorized to do business in this State as a
20 nonprofit corporation or unincorporated association under the
21 laws of this State, including, but not limited to, youth or
22 athletic associations, volunteer fire, ambulance, religious,
23
24
25

1 charitable, fraternal, veterans, civic, county fair or
2 agricultural associations, or any separately chartered auxiliary
3 of the foregoing, if organized and operated on a nonprofit basis.

4 "Sports program" means baseball (including softball),
5 football, basketball, soccer, and any other competitive sport
6 formally recognized as a sport by the United States Olympic
7 Committee as specified by and under the jurisdiction of the
8 Amateur Sports Act of 1978 (Public Law 95-606, 36 U.S.C. section
9 371 et seq.), the Amateur Athletic Union, or the National
10 Collegiate Athletic Association. The term shall be limited to a
11 program or that portion of a program that is organized for
12 recreational purposes and whose activities are substantially for
13 such purposes and which is primarily for participants who are
14 eighteen years of age or younger or whose nineteenth birthday
15 occurs during the year of participation or the competitive
16 season, whichever is longer. There, however, shall be no age
17 limitation for programs operated for the physically handicapped
18 or mentally retarded."

19 SECTION 2. New statutory material is underscored.

20 SECTION 3. This Act does not affect rights and duties that
21 matured, penalties that were incurred, and proceedings that were
22 begun, before its effective date.

H. B. NO. 232

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY:

W. L. Rami

L. H. Young
Edw. S. Jones

Doyle - John

Sam. H. M. M. M.

Virginia - Isbell

REBBERINGER

HOUSE BILL 0210

85th GENERAL ASSEMBLY

State of Illinois

1987 and 1988

Introduced February 4, 1987, by Representatives Panayotovitch, Churchill, Pangle, Berrios, Stange, Brunsvold, Bugielski, DeLeo, Farley, Flinn, Flowers, Giglio, Go-forth, Granberg, Harris, Hartke, Hensel, Jones, Keane, Kubik, Kulas, Laurino, LeFlore, Leverenz, Mautino, McCracken, McPike, Mulcahey, W. Peterson, Piel, Richmond, Ronan, Ropp, Shaw, Slater, Turner, Wojcik and Wolf

SYNOPSIS

(New Act)

Provides that no person who without compensation and as a volunteer renders services as a manager, coach, instructor, umpire or referee or who, without compensation and as a volunteer assists a manager, coach, instructor, umpire or referee in a sports program of a nonprofit association, and no nonprofit association, or any officer or employee thereof, conducting or sponsoring a sports program shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services or in conducting or sponsoring such sports programs, unless the conduct of such person or nonprofit association falls substantially below the standard generally practiced and accepted in like circumstances by similar persons or similar nonprofit associations rendering such services or conducting or sponsoring such sports programs and unless it is shown that such person or nonprofit association did an act or omitted the doing of an act which such person or nonprofit association was under a recognized duty to another to do knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another.

HB0210

LRB8500816RCml

1 AN ACT to limit civil liability of volunteer managers, 83
2 coaches, instructors, umpires, and referees who render 84
3 services in a sports program of a nonprofit association and 85
4 to limit the liability of nonprofit associations and their 86
5 officers and employees who conduct or sponsor such sports 87
6 program. 88
7 Be it enacted by the People of the State of Illinois, 91
8 represented in the General Assembly: 92
9 Section 1. Manager, coach, umpire or referee and 93
10 nonprofit association negligence standard. (a) General rule. 94
11 Except as provided otherwise in this Section, no person who, 95
12 without compensation and as a volunteer, renders services as 96
13 a manager, coach, instructor, umpire or referee or who, 97
14 without compensation and as a volunteer, assists a manager, 98
15 coach, instructor, umpire or referee in a sports program of a 99
16 nonprofit association, and no nonprofit association, or any 100
17 officer or employee thereof, conducting or sponsoring a 101
18 sports program, shall be liable to any person for any civil 102
19 damages as a result of any acts or omissions in rendering 103
20 such services or in conducting or sponsoring such sports 104
21 program, unless the conduct of such person or nonprofit 105
22 association falls substantially below the standards generally 106
23 practiced and accepted in like circumstances by similar 107
24 persons or similar nonprofit associations rendering such 108
25 services or conducting or sponsoring such sports programs, 109
26 and unless it is shown that such person or nonprofit 110
27 association did an act or omitted the doing of an act which 111
28 such person or nonprofit association was under a recognized 112
29 duty to another to do, knowing or having reason to know that 113
30 such act or omission created a substantial risk of actual 114
31 harm to the person or property of another. It shall be 115
32 insufficient to impose liability to establish only that the 116
33 conduct of such person or nonprofit association fell below 117

HB0210

-2-

LRB8500816RCml

1 ordinary standards of care. 113
2 (b) Exceptions. 115
3 (1) Nothing in this Section shall be construed as 117
4 affecting or modifying the liability of such person or 118
5 nonprofit association for any of the following:
6 (i) acts or omissions relating to the transportation of 120
7 participants in a sports program or others to or from a game, 121
8 event or practice.
9 (ii) acts or omissions relating to the care and 123
10 maintenance of real estate unrelated to the practice or 124
11 playing areas which such persons or nonprofit associations 125
12 own, possess or control.
13 (2) Nothing in this Section shall be construed as 127
14 affecting or modifying any existing legal basis for 128
15 determining the liability, or any defense thereto, of any 129
16 person not covered by the standard of negligence established 130
17 by this Section.
18 (c) Assumption of risk or comparative fault. Nothing in 132
19 this Section shall be construed as affecting or modifying the 133
20 doctrine of assumption of risk or comparative fault on the 134
21 part of the participant.
22 (d) Definitions. As used in this Section the following 136
23 words and phrases shall have the meanings given to them in 137
24 this subsection:
25 "Compensation" means any payment for services performed 139
26 but does not include reimbursement for reasonable expenses 141
27 actually incurred or to be incurred or, solely in the case of 142
28 umpires or referees, a modest honorarium.
29 "Nonprofit association" means an entity which is 144
30 organized as a not-for-profit corporation under the laws of 145
31 this State or the United States or nonprofit unincorporated 146
32 association or any entity which is authorized to do business 147
33 in this State as a not-for-profit corporation under the laws 148
34 of this State, including, but not limited to, youth or 149
35 athletic associations, volunteer fire, ambulance, religious,

HB0210

-3-

LR88500816RCml

1 charitable, fraternal, veterans, civic, county fair or
2 agricultural associations, or any separately chartered
3 auxiliary of the foregoing, if organized and operated on a
4 nonprofit basis.

5 "Sports program" means baseball (including softball),
6 football, basketball, soccer or any other competitive sport
7 formally recognized as a sport by the United States Olympic
8 Committee as specified by and under the jurisdiction of the
9 Amateur Sports Act of 1978 (36 U.S.C. 371 et seq.), the
10 Amateur Athletic Union or the National Collegiate Athletic
11 Association. The term shall be limited to a program or that
12 portion of a program that is organized for recreational
13 purposes and whose activities are substantially for such
14 purposes and which is primarily for participants who are 18
15 years of age or younger or whose 19th birthday occurs during
16 the year of participation or the competitive season,
17 whichever is longer. There shall, however, be no age
18 limitation for programs operated for the physically
19 handicapped or mentally retarded.

20 Section 2. Officer, director or trustee of nonprofit
21 organization negligence standard. (a) General rule. Except as
22 provided otherwise in this section, no person who serves
23 without compensation, other than reimbursement for actual
24 expenses, as an officer, director or trustee of any nonprofit
25 organization under Section 501(c)(3) of the Internal Revenue
26 Code of 1986 (26 U.S.C. Sec. 501(c)(3)) shall be liable for
27 any civil damages as a result of any acts or omissions
28 relating solely to the performance of his duties as an
29 officer, director or trustee, unless the conduct of the
30 person falls substantially below the standards generally
31 practiced and accepted in like circumstances by similar
32 persons performing the same or similar duties, and unless it
33 is shown that the person did an act or omitted the doing of
34 an act which the person was under a recognized duty to
35 another to do, knowing or having reason to know that the act

-4-

LR88500816RCml

1 or omission created a substantial risk of actual harm to the
2 person or property of another. It shall be insufficient to
3 impose liability to establish only that the conduct of the
4 person fell below ordinary standards of care.
5 (b) Exception. Nothing in this Section shall be
6 construed as affecting or modifying any existing legal basis
7 for determining the liability, or any defense thereto, of any
8 nonprofit association.

HB0210

Indiana

STATE OF INDIANA
Legislative Services Agency
302 State House

*HB 1102 did not pass,
but HEA 1445 - P.L. 310
from 1987 did pass
dealing with the same
subject. I have included
a copy of both.*

HOUSE BILL No. 1102

A BILL FOR AN ACT to amend the Indiana Code
concerning civil procedure.

**Turpin, C. Brown,
Young, Goble**

January 7, 1987, read first time and referred to
Committee on Courts and Criminal Code.
February 19, 1987, amended, reported favorably—Do
Pass.

February 23, 1987.

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in this style type. Also, the word NEW will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

DIGEST

Citations Affected: IC 34-4-11.8.

Synopsis: Grants immunity from civil liability for negligent acts and omissions related to the use of volunteers in sports and leisure activities.

Effective: June 1, 1987.

HOUSE BILL No. 1102

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-4-11.8 IS ADDED TO THE INDIANA
2 CODE AS A NEW CHAPTER TO READ AS FOLLOWS:
3 Chapter 11.8. Immunity; Sports or Leisure Activities.
4 Sec. 1. As used in this chapter, "compensation" does
5 not include the following:
6 (1) Reimbursement or payment of reasonable expenses
7 incurred for the benefit of a sports or leisure activity.
8 (2) Any award, meal, or other gift that does not exceed
9 one hundred dollars (\$100) in value and is given as a
10 token of appreciation or recognition.
11 (3) Any per diem payment that does not exceed fifty
12 dollars (\$50) for personal services as a referee, umpire,
13 judge, or assistant to a referee, umpire, or judge.
14 Sec. 2. As used in this chapter, "sports or leisure
15 activity" means:

H.B. 1102—LS 6435/DI 51

2

- 1 (1) an athletic or sports competition, exhibition, or
2 event; and
3 (2) an activity conducted for a recreational purpose.
4 Sec. 3. As used in this chapter, "volunteer" means an
5 individual who, without compensation, engages in or
6 provides other personal services for a sports or leisure
7 activity such as baseball, basketball, football, soccer,
8 hockey, volleyball, cheerleading, or other similar sports or
9 leisure activities involving children who are less than
10 sixteen (16) years of age.
11 Sec. 4. This chapter does not grant immunity from civil
12 liability to a person who engaged in intentional, willful,
13 wanton, or reckless behavior.
14 Sec. 5. (a) This chapter does not grant immunity from
15 civil damages that are proximately caused by the
16 negligent operation of a motor vehicle.
17 (b) This chapter does not apply to an individual who is
18 registered, certified, or licensed under IC 25.
19 (c) This chapter does not affect the vicarious civil
20 liability of the entity the individual serves.
21 Sec. 6. A volunteer is not liable for civil damages that
22 are proximately caused by a negligent act or omission in
23 the personal services provided by:
24 (1) the volunteer; or
25 (2) another person selected, trained, supervised, or
26 otherwise under the control of the volunteer;
27 in the course of a sports or leisure activity.
28 Sec. 7. (a) As used in this section, "governmental
29 entity" has the meaning set forth in IC 34-4-16.5-2.
30 (b) A governmental entity and the employees and
31 agents of a governmental entity are not liable for civil
32 damages that are proximately caused by:
33 (1) the negligent selection, training, or supervision of a
34 volunteer providing personal services in the course of a
35 sports or leisure activity; or
36 (2) a negligent act or omission in the personal services
37 provided by:
38 (A) the volunteer; or
39 (B) another person selected, trained, supervised, or
40 otherwise under the control of the volunteer;
41 in the course of a sports or leisure activity;
42 SECTION 2. This act does not apply to causes of action
43 accruing before June 1, 1987.
44 SECTION 3. This act takes effect June 1, 1987.

H.B. 1102—LS 6435/DI 51

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1102, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 14, delete "exhibit" and insert in bold "exhibition".

Page 1, line 14, after ":", insert in bold "and".

Page 1, line 15, delete ":", and" and insert in bold ":", and".

Page 1, delete line 16.

Page 2, line 3, after "activity" insert in bold "such as baseball, basketball, football, soccer, hockey, volleyball, cheerleading, or other similar sports or leisure activities involving children who are less than sixteen (16) years of age".

Page 2, delete lines 6 through 8, begin a new paragraph, and insert in bold the following:

"Sec. 5. (a) This chapter does not grant immunity from civil damages that are proximately caused by the negligent operation of a motor vehicle.

(b) This chapter does not apply to an individual who is registered, certified, or licensed under IC 25.

(c) This chapter does not affect the vicarious civil liability of the entity the individual serves."

Page 2, line 15, after "(a)" insert in bold "As used in this section, "governmental entity" has the meaning set forth in IC 34-4-16.5-2."

Page 2, line 15, delete "A nonprofit organization", begin a new paragraph and insert in bold the following:

"(b) A governmental entity".

Page 2, line 16, delete "nonprofit organization" and insert in bold "governmental entity".

Page 2, delete lines 25 through 29.

and when so amended that said bill do pass.

BRAY, Chairman

Committee Vote: Yeas 10, Nays 0.

CIVIL PROCEDURE

Chapter 11.8. Immunity; Sports or Leisure Activities.

- 34-4-11.8-1 "Compensation" defined
- 34-4-11.8-2 "Sports or leisure activity" defined
- 34-4-11.8-3 "Volunteer" defined
- 34-4-11.8-4 Intentional, wanton, or reckless behavior
- 34-4-11.8-5 Negligent operation of motor vehicle; licensed individuals; vicarious civil liability
- 34-4-11.8-6 Liability of volunteers
- 34-4-11.8-7 Liability of governmental entities, employees, and agents

34-4-11.8-1 "Compensation" defined

Sec. 1. As used in this chapter, "compensation" does not include the following:

- (1) Reimbursement or payment of reasonable expenses incurred for the benefit of a sports or leisure activity.
- (2) Any award, meal, or other gift that does not exceed one hundred dollars (\$100) in value and is given as a token of appreciation or recognition.
- (3) Any per diem payment that does not exceed fifty dollars (\$50) for personal services as a referee, umpire, judge, or assistant to a referee, umpire, or judge.

As added by P.L.310-1987, SEC.5.

34-4-11.8-2 "Sports or leisure activity" defined

Sec. 2. As used in this chapter, "sports or leisure activity" means:

- (1) an athletic or sports competition, exhibition, or event; and
- (2) an activity conducted for a recreational purpose.

As added by P.L.310-1987, SEC.5.

34-4-11.8-3 "Volunteer" defined

Sec. 3. As used in this chapter, "volunteer" means an individual who, without compensation, engages in or provides other personal services for a sports or leisure activity such as baseball, basketball, football, soccer, hockey, volleyball, cheerleading, or other similar sports or leisure activities involving children who are less than sixteen (16) years of age. *As added by P.L.310-1987, SEC.5.*

34-4-11.8-4 Intentional, wanton, or reckless behavior

Sec. 4. This chapter does not grant immunity from civil liability to a person who engaged in intentional, willful, wanton, or reckless behavior. *As added by P.L.310-1987, SEC.5.*

34-4-11.8-5 Negligent operation of motor vehicle; licensed individuals; vicarious civil liability

Sec. 5. (a) This chapter does not grant immunity from civil damages that are proximately caused by the negligent operation of a motor vehicle.

(b) This chapter does not apply to an individual who is registered, certified, or licensed under IC 25.

(c) This chapter does not affect the vicarious civil liability of the entity the individual serves. *As added by P.L.310-1987, SEC.5.*

34-4-11.8-6 Liability of volunteers

Sec. 6. A volunteer is not liable for civil damages that are proximately caused by a negligent act or omission in the personal services provided by:

- (1) the volunteer; or
- (2) another person selected, trained, supervised, or otherwise under the control of the volunteer;

in the course of a sports or leisure activity. *As added by P.L.310-1987, SEC.5.*

34-4-11.8-7 Liability of governmental entities, employees, and agents

Sec. 7. (a) As used in this section, "governmental entity" has the meaning set forth in IC 34-4-16.5-2.

(b) A governmental entity and the employees and agents of a governmental entity are not liable for civil damages that are proximately caused by:

- (1) the negligent selection, training, or supervision of a volunteer providing personal services in the course of a sports or leisure activity; or
- (2) a negligent act or omission in the personal services provided by:

- (A) the volunteer; or
- (B) another person selected, trained, supervised, or otherwise under the control of the volunteer;

in the course of a sports or leisure activity. *As added by P.L.310-1987, SEC.5.*

Louisiana
(504) 342-7393



House of Representatives
P. O. Box 44486 Baton Rouge, LA 70804

Jimmy N. Dimos
Speaker of the House of Representatives

James Martin
Chairman, House Legislative Services Council

David R. Poynter
Executive Director, Legislative Services

April 18, 1988

LEGISLATIVE SERVICES

Fiscal Division
Commercial Regulation Division
Legal Division
Governmental Division

Ms. Jean Mardfin
Researcher
Legislative Reference Bureau
State Capitol
Honolulu, Hawaii 96813

Dear Ms. Mardfin:

With reference to your letter of April 11, regarding 1987 legislation to provide immunity for nonprofit organizations, including sports organizations, we have enclosed a copy of Act No. 572 (House Bill 179) of the 1987 Regular Session of the Louisiana Legislature. This was the only bill enacted regarding this subject. It limits the liability of volunteer athletic coaches, managers, team physicians or sports team officials.

Please revise your address list to reflect that our executive director is now Mr. David R. Poynter and all future correspondence should be addressed to him. We hope the above information will be of benefit to you.

Sincerely,

Steve George
I. Stephen George
Coordinator
Legal Division

ISG/pdd

Enclosure

ACT No. 572

**HOUSE BILL NO. 179
BY MR. ACCARDO AND SENATOR LANDRY
AN ACT**

To enact R.S. 9:2796.1, to limit the liability of volunteer athletic coaches, managers, team physician, or sports team officials, and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2796.1 is hereby enacted to read as follows:

§2796.1. Limitation of liability of volunteer athletic coaches, managers, team physician, or officials

A. Except as provided in Subsection B of this Section, no person shall have a cause of action against any volunteer athletic coach, manager, team physician, or sports team official for any loss or damage caused by any act or omission to act directly related to his responsibilities as a coach, manager, team physician, or official, while actively directing or participating in the sporting activities or in the practice thereof, unless the loss or damage was caused by the gross negligence of the coach, manager, team physician, or official.

B. Subsection A of this Section shall not be applicable unless the volunteer athletic coach, manager, team physician, or sports team official has participated in a safety orientation and training program established by the league or team with which he is affiliated. Participation in a safety orientation and training program by a coach, manager, team physician, or sports team official may be waived by the league prior to the individual's participation in the sporting activities or in the practice thereof upon submission of appropriate documented evidence as to that individual's proficiency in first aid and safety.

Approved by the Governor, July 9, 1987.

Published in the Official Journal of the State:

August 5, 1987.

A true copy:

**James H. "Jim" Brown
Secretary of State**

Minnesota

Ch. 337

LAWS of MINNESOTA for 1987

Sec. 126. [604.08] VOLUNTEER ATHLETIC COACHES AND OFFICIALS; IMMUNITY FROM LIABILITY.

Subdivision 1. GRANT. No individual who provides services or assistance without compensation as an athletic coach, manager, or official for a sports team that is organized or performing under a nonprofit charter, and no community-based, voluntary nonprofit athletic association, or any volunteer of the nonprofit athletic association, is liable for money damages to a player or participant as a result of an individual's acts or omissions in the providing of that service or assistance.

This section applies to organized sports competitions and practice and instruction in that sport.

For purposes of this section, "compensation" does not include reimbursement for expenses.

Subd. 2. LIMITATION. Subdivision 1 does not apply:

(1) to the extent that the acts or omissions are covered under an insurance policy issued to the entity for whom the coach, manager, or official serves;

(2) if the individual acts in a willful and wanton or reckless manner in providing the services or assistance;

(3) if the acts or omissions arise out of the operation, maintenance, or use of a motor vehicle;

(4) to an athletic coach, manager, or official who provides services or assistance as part of a public or private educational institution's athletic program; and

(5) if the individual acts in violation of federal, state, or local law.

The limitation in clause (1) constitutes a waiver of the defense of immunity to the extent of the liability stated in the policy, but has no effect on the liability of the individual beyond the coverage provided.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Mississippi

From:

LEGISLATIVE REFERENCE BUREAU
State of Mississippi

Attached is copy of 1987 H.B. 257, as requested. The bill never reached the floor for a vote but died in House Committee, as shown on the first page.

Please note the name of the new
Director of the Legislative Reference
Bureau:

Kenneth B. Raigins

Let us know if you need additional
information.

MJW

Mary Jane Wilburn
Legislative Research Assistant

April 15, 1988

By: Representative Hall

To: Judiciary B

DIED IN
HOUSE COMMITTEEHOUSE BILL NO. 257

1. AN ACT TO PROVIDE THAT VOLUNTARY ACTS OF ASSISTANCE TO
2. PROTECT A PERSON'S HEALTH OR SAFETY SHALL NOT CREATE ANY DUTY OF
3. CARE AND TO LIMIT LIABILITY FOR SUCH ACTS; AND FOR RELATED
4. PURPOSES.

5. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6. SECTION 1. (1) It is the intent of the Legislature to
7. encourage the provision of services or assistance by persons on a
8. voluntary basis to enhance the public safety rather than to allow
9. judicial decisions to establish precedents which discourage such
10. services or assistance to the detriment of public safety.

11. (2) (a) To encourage the provision of services or
12. assistance by persons on a voluntary basis, a person shall not be
13. deemed to have assumed a duty of care where none otherwise existed
14. when he performs a service or an act of assistance, without
15. compensation or expectation of compensation, for the benefit of
16. another person, or adopts or enforces a policy or a regulation to
17. protect another person's health or safety. Such person providing
18. such services or assistance or adopting or enforcing such a policy
19. or regulation shall not be liable for any civil damages for acts
20. or omissions in good faith. Such performance of a service or an
21. act of assistance for the benefit of another person or adoption or
22. enforcement of a policy or regulation for the protection of
23. another person's health or safety shall not create any duty of
24. care with respect to a third person, nor shall it create a duty
25. for any person to perform such a service or an act of assistance
26. nor to adopt or enforce such a policy or regulation.

27. (b) No member of the board of directors of a nonprofit
28. corporation shall be held liable for actions taken or omissions
29. made in the performance of his duties as a board member except for
30. wanton or willful acts or omissions.

31. (3) Nothing in this section shall be construed to supersede,
32. abrogate or limit any immunities or limitations of liability
33. otherwise provided by Section 73-25-37 or by any other law.

34. SECTION 2. This act shall take effect and be in force from
35. and after July 1, 1987, and shall apply to all acts or omissions
36. occurring on or after such date.

Nebraska

LB 43

LB 43

LEGISLATURE OF NEBRASKA

NINETIETH LEGISLATURE

FIRST SESSION

Legislative Bill 43

Introduced by Haberman, 44

Read first time January 8, 1987

Committee: Judiciary

A BILL

1 FOR AN ACT relating to athletics; to define terms; and
2 to provide an exemption from liability for
3 sports volunteers and organizations as
4 prescribed.
5 Be it enacted by the people of the State of Nebraska,

LB 43

LB 43

1 Section 1. For purposes of this act, unless
2 the context otherwise requires, the definitions found in
3 sections 2 and 3 of this act shall apply.

4 Sec. 2. Sports program shall mean any
5 competitive sport formally recognized as a sport by the
6 United States Olympic Committee as specified by and
7 under the jurisdiction of the Amateur Sports Act of
8 1978, Public Law 95-606, the Amateur Athletic Union, or
9 the National Collegiate Athletic Association, including,
10 but not limited to, baseball, softball, football,
11 basketball, and soccer, which is (1) organized and
12 operated by a nonprofit corporation or unincorporated
13 association for recreational purposes and (2) for
14 participants of any age or who are physically
15 handicapped or mentally retarded.

16 Sec. 3. Sports volunteer shall mean any
17 person who renders or assists in the rendering of
18 services as a manager, coach, instructor, umpire, or
19 referee, without compensation, other than reimbursed
20 expenses, in a sports program.

21 Sec. 4. No sports volunteer shall be liable
22 to any person for any civil damages which are a result
23 of an act or omission of an act which occurs during a
24 sports program unless:

25 (1) The conduct of the sports volunteer

LB 43

LB 43

1 constituted willful or wanton misconduct or
2 intentionally tortious conduct; and

3 (2) The sports volunteer, under a recognized
4 duty to another person, acted or failed to act, knowing
5 or having reason to know that the act or omission
6 constituted willful or wanton misconduct or
7 intentionally tortious conduct.

8 Sec. 5. No nonprofit corporation or
9 unincorporated association or any officer or employee of
10 such corporation or association shall be liable to any
11 person for any civil damages which are a result of an
12 act or omission of an act while such corporation or
13 association is conducting or sponsoring a sports program
14 unless:

15 (1) The conduct of the corporation,
16 association, officer, or employee constituted willful or
17 wanton misconduct or intentionally tortious conduct; and

18 (2) The corporation, association, officer, or
19 employee, under a recognized duty to another person,
20 acted or failed to act, knowing or having reason to know
21 that the act or omission constituted willful or wanton
22 misconduct or intentionally tortious conduct.

23 Sec. 6. Nothing in sections 1 to 5 of this
24 act shall be construed as changing any person's
25 liability for (1) transporting participants in a sports

LB 43

LB 43

1 program or other persons to or from a game, event, or
2 practice or (2) acts or omissions in programs or
3 portions of programs which do not qualify as sports
4 programs.

LEGISLATIVE BILL 123

Approved by the Governor January 29, 1988

Introduced by Pirsch, 10; Hannibal, 4; Ashford, 6;
Haberman, 44

AN ACT relating to nonprofit sports programs; to define terms; to provide immunity from civil damages as prescribed; and to provide for a statement.
Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds and declares it is in the public interest that there be adequate nonprofit sports programs available within the State of Nebraska.

Sec. 2. As used in this act, unless the context otherwise requires:

(1) Compensation shall not include:

(a) Gifts not exceeding a total value of one hundred dollars in any twelve consecutive months; or

(b) Any reimbursement for any reasonable expense incurred for the benefit of a nonprofit sports program;

(2) Duty shall mean any activity normally performed by an individual while acting as a member of the qualified staff;

(3) Member of the qualified staff shall mean any individual who:

(a) Is a manager, coach, umpire, or referee;

(b) Is an assistant to a manager, coach, umpire, or referee; or

(c) Prepares any playing field for any practice session or any formal game;

(4) Negligent act or omission shall not include any reckless, willful, wanton, or grossly negligent act or omission;

(5) Nonprofit sports program shall mean any program, whether or not it is registered with or recognized by this state or any political subdivision of this state:

(a) That is a sports program organized for recreational purposes and the activities of which are principally for such purposes; and

(b) No part of the net earnings of which inures to the benefit of any person; and

(6) Person shall include bodies politic and corporate, societies, communities, the public generally,

individuals, partnerships, joint-stock companies, and associations.

Sec. 3. Any individual who renders services without compensation as a member of the qualified staff of a nonprofit sports program shall not be liable under the laws of this state for civil damages resulting from any negligent act or omission of such qualified member occurring in the performance of any duty of such qualified member.

Sec. 4. Any person who sponsors, organizes, or causes a nonprofit sports program to operate shall give the parent or guardian of any minor who participates in such a program a written statement in the following form:

Coaches, managers, umpires, referees, their assistants, or anyone who prepares any playing field shall NOT be liable for the injury or death of any participant in (name of activity or program) which results from the negligence of any of the above-listed individuals.

The provisions of section 3 of this act shall not apply to any individual unless a copy of such statement signed by the parent or guardian is retained by the person who sponsors, organizes, or causes the affected sports program to operate.

Sec. 5. Nothing in this act shall be construed as affecting or modifying the liability of any person for any:

(1) Acts or omission relating to the transportation of participants in a sports program or other individuals to or from a game, event, or practice; and

(2) Acts or omissions relating to the care and maintenance of real estate which constitutes no physical part of the actual practice or playing field.

STATE OF NEW HAMPSHIRE

DIRECTOR
LYNNE M DENNIS



DEPUTY DIRECTOR
SUSAN E MARSHALL

OFFICE of LEGISLATIVE SERVICES

ROOM 109 STATE HOUSE
CONCORD, NEW HAMPSHIRE 03301

April 27, 1988

Ms. Jean Mardfin
Legislative Reference Bureau
State of Hawaii
State Capitol
Honolulu, Hawaii 96813


Dear Ms. Mardfin:

In response to your request, I am enclosing HB 301, An Act providing civil immunity from liability for volunteers serving as athletic coaches or sports officials for nonprofit associations. This bill was considered during the 1987 Session but the full House voted to lay the bill on the table.

I have also included the last Committee of Conference Report on HB 237 of the 1988 Session. This bill limits the civil liability of volunteers working on behalf of nonprofit organizations by establishing a special insurance compensation fund and a process to compensate persons with claims against volunteers. The enclosed report is the final version of the bill as amended and passed on April 20, 1988. The bill is now awaiting gubernatorial action.

I hope this information will be of use to you. If I can be of any further assistance to you in the future, please feel free to contact me.

Sincerely,


Carin I. Fischer
Legislative Research Assistant

Enclosure

DIRECTOR (603) 271-3432
LEGAL STAFF (603) 271-3435
ADMINISTRATION (603) 271-3433

RESEARCH
ADMINISTRATIVE RULES

(603) 271-3326
(603) 271-3680

0206B
87-0196
09

HOUSE BILL NO.

301

INTRODUCED BY: Rep. Fesh of Rockingham Dist. 7; Rep. Hawkins of Belknap
Dist. 5; Rep. Stonner of Hillsborough Dist. 11; Rep. Palumbo
of Rockingham Dist. 10; Rep. G. Katsakiores of Rockingham
Dist. 7; Sen. Blaisdell of Dist. 10; Sen. Hounsell of Dist. 2
REFERRED TO: Judiciary

AN ACT providing civil immunity from liability for volunteers serving as
athletic coaches or sports officials for nonprofit associations.

ANALYSIS

This bill provides civil immunity from liability for volunteer athletic coaches and officials of nonprofit associations. This immunity does not extend to persons causing damages by willful or grossly negligent acts.

EXPLANATION: Matter added appears in *bold italics*.
Matter removed appears in [brackets].
Matter which is repealed and reenacted or all new
appears in regular type.

0206B
87-0196
09

HB 301

STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand
nine hundred and eighty-seven

AN ACT

providing civil immunity from liability for
volunteers serving as athletic coaches or
sports officials for nonprofit associations.

Be it Enacted by the Senate and House of Represen-
tatives in General Court convened:

1 New Section; Liability Limited; Volunteer Athletic Coaches. Amend
RSA 508 by inserting after section 16 the following new section:
508:17 Volunteer Athletic Coaches; Liability Limited.

I. In this section:

(a) "Athletic coach or Official" includes a person who provides
services or assistance to a sports team or sports program as a coach,
assistant coach, manager, assistant manager, umpire, referee, or instructor.

(b) "Nonprofit association" means an entity which is organized as
a nonprofit unincorporated association under the laws of this state or the
United States or any entity which is authorized to do business in this
state as a nonprofit corporation or unincorporated association under the
laws of this state, including, but not limited to, youth or athletic
associations, volunteer fire, ambulance, religious, charitable, fraternal,
veterans, civic, county fair or agricultural associations, or any
separately chartered auxiliary of the foregoing, if organized and operated
on a nonprofit basis. "Nonprofit association" shall also mean a town or

HB 301

- 2 -

city recreation department.

(c) "Sports team or sports program" means any group or program
which plays or offers a program in baseball (including softball), football,
basketball, soccer and any other competitive sport formally recognized as a
sport by the Amateur Athletic Union or the National Collegiate Athletic
Association. The term shall be limited to teams or programs which are
operated primarily for the recreational and athletic benefit of persons
under 18 years of age.

II. No person who provides services or assistance free of charge,
except for reimbursement of reasonable expenses, as an athletic coach or
official for a sports team or sports program of a nonprofit association
shall be liable in any civil action for damages to a player or participant
as a result of his acts of commission or omission arising out of and in the
course of his rendering that service or assistance.

III. Paragraph II shall apply not only to organized sports
competitions, but shall also apply to practice and instruction in that
sport.

IV. Nothing in this section shall be deemed to grant immunity to any
person causing damage by his willful, wanton, or grossly negligent act of
commission or omission.

V. Nothing in this section shall be deemed to grant immunity to any
person for any damage caused by that person permitting a sport competition
or practice to be conducted without supervision.

2 Effective Date. This act shall take effect January 1, 1988.

2766L
April 20, 1988
09

COMMITTEE OF CONFERENCE REPORT ON HB 237-FN

The committee of conference to which was referred House Bill 237-FN, An Act limiting the civil liability of volunteers working on behalf of nonprofit organizations; establishing a special insurance compensation fund and a process to compensate persons with claims against volunteers having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Volunteers; Nonprofit Organizations; Liability Limited.

Amend RSA 508 by inserting after section 16 the following new section:

508:17 Volunteers; Nonprofit Organizations; Liability Limited.

I. Any volunteer of a nonprofit organization or government entity shall be immune from civil liability in any action brought on the basis of any act or omission resulting in damage or injury to any person if:

(a) The volunteer had prior written approval from the organization to act on behalf of the organization; and

Committee of Conference on HB 237-FN

- 2 -

(b) The volunteer was acting in good faith and within the scope of his official functions and duties with the organization; and

(c) The damage or injury was not caused by willful, wanton, or grossly negligent misconduct by the volunteer.

II. Liability of a nonprofit organization for bodily injury, personal injury or property damage sustained by any one person in actions brought against the organization alleging negligence on the part of an organization volunteer is limited to \$250,000. Such limit applies in the aggregate to any and all actions to recover for bodily injury, personal injury or property damage arising out of bodily injury, personal injury or property damage sustained by one person in a single incident or occurrence. Liability of a nonprofit organization for bodily injury, personal injury or property damage sustained by any number of persons in a single incident or occurrence involving negligence on the part of an organization volunteer is limited to \$1,000,000.

III. Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization against any volunteer of such organization.

IV. Volunteer activity related to transportation or to care of the organization's premises shall be excepted from the provisions of paragraph I of this section.

V. In this section:

(a) "Damage or injury" includes physical, nonphysical, economic and noneconomic damage.

(b) "Nonprofit organization" shall include, but not be limited, to a not for profit organization, corporation, community chest, fund or

Committee of Conference on HB 237-FN

- 3 -

foundation organized and operated exclusively for religious, cultural, charitable, scientific, recreational, literary, agricultural, or educational purposes, or to foster amateur competition in a sport formally recognized by the National Collegiate Athletic Association, and an organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1986 organized or incorporated in this state or having a principal place of business in this state.

(c) "Volunteer" means an individual performing services for a nonprofit organization or government entity who does not receive compensation, other than reimbursement for expenses actually incurred for such services. In the case of volunteer athletic coaches or sports officials, such volunteers shall possess proper certification or validation of competence in the rules, procedures, practices, and programs of the athletic activity.

2 Applicability. This act shall apply to all causes of action arising on or after July 1, 1988.

3 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given

Committee of Conference on HB 237-FN

- 4 -

effect without the invalid provisions or application, and to this end the provisions of this act are severable.

4 Effective Date. This act shall take effect July 1, 1988.

Conferees on the Part of the Senate

George Freese
Sen. Freese, Dist. 4

Clem Blaisdell
Sen. Blaisdell, Dist. 10

William Roberge
Sen. Roberge, Dist. 9

Conferees on the Part of the House

Alvin Sytek
Rep. Sytek, Rock. 20

Thomas Gage
Rep. Gage, Rock. 13

Les Fraser
Rep. Fraser, Merr. 6

Simon Tilton
Rep. Tilton, Rock. 20

Committee of Conference on HB 237-FN

- 5 -

2766L

AMENDED ANALYSIS

This bill, as amended, provides that volunteers for nonprofit organizations and government entities shall be immune from civil liability for damage or injury resulting from their volunteer activities, under certain circumstances.

This bill, as amended, also limits the liability of a nonprofit organization in actions claiming damages for volunteer negligence to \$250,000 per person and to \$1,000,000 per incident.



NORTH DAKOTA
CENTENNIAL
1989 North Dakota Centennial Commission

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North Dakota Legislative Council

STATE CAPITOL — BISMARCK 58505-0183 TELEPHONE (701) 224-2916

April 15, 1988

Ms. Jean Mardfin
Researcher
Legislative Reference Bureau
State Capitol
Honolulu, HI 96813

Dear Ms. Mardfin:

In response to your request, enclosed is a copy of House Bill No. 1080 (1987), relating to immunity from civil liability for acts of volunteers including volunteer athletic coaches and officials. This legislation has been codified as North Dakota Century Code Sections 32-03-45 and 32-03-46, copies of which are also enclosed. The legislative history for House Bill No. 1080, including standing committee minutes, is also enclosed.

We trust this information meets your needs. If you have any questions, please contact this office.

Sincerely,

John D. Olsrud
Director

JDO/nb
Encs.

Fiftieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1080

Introduced by

Representative Wald
Senator Malewaja

1 A BILL for an Act to provide immunity from civil liability to
2 volunteers providing services for nonprofit organizations and sports
3 teams.

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

6 SECTION 1. Immunity of volunteers providing services for nonprofit
7 organizations. Except as provided in section 2 of this Act, any
8 person who, on a volunteer basis, provides services or performs
9 duties on behalf of a nonprofit organization is immune from civil
10 liability for any act or omission resulting in damage or injury if
11 at the time of the act or omission all of the following are met:

12 1. The person who caused the damage or injury was acting in
13 good faith and in the scope of that person's duties as a
14 volunteer for the nonprofit organization.

15 2. The act or omission did not constitute willful misconduct
16 or gross negligence.

17 This section does not grant immunity to any person causing damage as
18 the result of the negligent operation of a motor vehicle.

19 SECTION 2. Immunity of volunteer athletic coaches and officials.

20 1. Any person who provides services or assistance free of
21 charge, except for reimbursement of expenses, as an
22 athletic coach, manager, or official for a sports team
23 which is organized or performing pursuant to a nonprofit
24 or similar charter is immune from civil liability for any
25 act or omission resulting in damage or injury to a player
26 or participant if at the time of the act or omission all
27 the following are met:

Fiftieth
Legislative Assembly

1 a. The person who caused the damage or injury was acting
2 in good faith and in the scope of that person's duties
3 for the sports team.
4 b. The act or omission did not constitute willful
5 misconduct or gross negligence.
6 c. The coach, manager, or official had participated in a
7 safety orientation and training program established by
8 the league or team with which the person is
9 affiliated.
10 2. This section does not grant immunity to:
11 a. Any person causing damage as the result of the
12 negligent operation of a motor vehicle.
13 b. Any person for any damage caused by that person
14 permitting a sports competition or practice to be
15 conducted without supervision.
16 c. Any athletic coach, manager, or official providing
17 service as part of a public or private educational
18 institution's athletic program.

Source: S.L. 1985, ch. 371, § 1.

32-03-43. Wrongful life action prohibited — Definition. No person may maintain a claim for relief or receive an award for damages on that person's own behalf based on the claim that, but for the act or omission of another, that person would have been aborted. As used in this section "abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead embryo or fetus.

Source: S.L. 1985, ch. 372, §§ 1, 2.

32-03-44. Immunity of officers, directors, and trustees of nonprofit organizations. Any person who serves as a director, officer, or trustee of a nonprofit organization that is, or would qualify as a nonprofit organization that is, described in paragraphs 3, 4, 5, 6, 7, 10, and 19 of section 501(c) of the Internal Revenue Code of 1954 as amended [126 U.S.C. 501(c)(3), (4), (5), (6), (7), (10), and (19)], is immune from civil liability for any act or omission resulting in damage or injury if at the time of the act or omission all of the following are met:

1. The officer, director, or trustee was acting in good faith and in the scope of that person's official duties as a director, officer, or trustee of the nonprofit organization.
2. The act or omission did not constitute willful misconduct or gross negligence on the part of the officer, director, or trustee.
3. The officer, director or trustee did not receive or expect to receive reimbursement for or payment of expenses in excess of two thousand dollars per year for expenses actually incurred as a result of providing services as a director, officer, or trustee of the nonprofit organization and did not receive or expect to receive compensation or anything in lieu of compensation as payment for services provided as a director, officer, or trustee of the nonprofit organization.

Source: S.L. 1987, ch. 402, § 1.

32-03-45. Immunity of volunteers providing services, for nonprofit organizations. Except as provided in section 32-03-46, any person who, on a volunteer basis, provides services or performs duties on behalf of a nonprofit organization is immune from civil liability for any act or omission resulting in damage or injury if at the time of the act or omission all of the following are met:

1. The person who caused the damage or injury was acting in good faith, in the exercise of reasonable and ordinary care, and in the scope of that person's duties as a volunteer for the nonprofit organization.
2. The act or omission did not constitute willful misconduct or gross negligence.

This section does not grant immunity to any person causing damage as the result of the negligent operation of a motor vehicle.

Source: S.L. 1987, ch. 402, § 1.

Effective Date.

This section became effective April 2, 1987.

32-03-46. Immunity of volunteer athletic coaches and officials.

1. Any person who provides services or assistance free of charge, except for reimbursement of expenses, as an athletic coach, manager, or official for a sports team which is organized or performing pursuant to a nonprofit or similar charter is immune from civil liability for any act or omission resulting in damage or injury to a player or participant if at the time of the act or omission all the following are met:
 - a. The person who caused the damage or injury was acting in good faith, in the exercise of reasonable and ordinary care, and in the scope of that person's duties for the sports team.
 - b. The act or omission did not constitute willful misconduct or gross negligence.
 - c. The coach, manager, or official had participated in a safety orientation and training program established by the league or team with which the person is affiliated.
2. This section does not grant immunity to:
 - a. Any person causing damage as the result of the negligent operation of a motor vehicle.
 - b. Any person for any damage caused by that person permitting a sports competition or practice to be conducted without supervision.
 - c. Any athletic coach, manager, or official providing service as a part of a public or private educational institution's athletic program.

Source: S.L. 1987, ch. 402, § 2.

Effective Date.

This section became effective April 2, 1987.

CHAPTER 32-03.1

GOOD SAMARITAN ACT

Section

- 32-03.1-01. Definitions.
 32-03.1-02. Actions barred.
 32-03.1-03. Criminal immunity.
 32-03.1-04. Physicians or surgeons.

Section

- 32-03.1-05. Exceptions.
 32-03.1-06. Limited repealer.
 32-03.1-07. Costs and fees.
 32-03.1-08. Actions not barred.

32-03.1-01. Definitions. For the purposes of this chapter, the following terms shall have the designated meanings:

1. "Aid or assistance necessary or helpful in the circumstances" means any actions which the aider reasonably believed were required to prevent death or serious permanent injury, disability or handicap, or reasonably believed would benefit the injured or ill person, depending upon the aider's perception of the nature and severity of the injury or illness and the total emergency situation, and that the aider reasonably believed he could successfully undertake.

1987 Session Laws

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CHAPTER 402

JUDICIAL REMEDIES

CHAPTER 402

HOUSE BILL NO. 1080
(Representative Wald)
(Senator Nalewaja)

VOLUNTEER SERVICES CIVIL IMMUNITY

AN ACT to provide immunity from civil liability to volunteers providing services for nonprofit organizations and sports teams; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. Immunity of volunteers providing services for nonprofit organizations. Except as provided in section 2 of this Act, any person who, on a volunteer basis, provides services or performs duties on behalf of a nonprofit organization is immune from civil liability for any act or omission resulting in damage or injury if at the time of the act or omission all of the following are met:

1. The person who caused the damage or injury was acting in good faith, in the exercise of reasonable and ordinary care, and in the scope of that person's duties as a volunteer for the nonprofit organization.
2. The act or omission did not constitute willful misconduct or gross negligence.

This section does not grant immunity to any person causing damage as the result of the negligent operation of a motor vehicle.

SECTION 2. Immunity of volunteer athletic coaches and officials.

1. Any person who provides services or assistance free of charge, except for reimbursement of expenses, as an athletic coach, manager, or official for a sports team which is organized or performing pursuant to a nonprofit or similar charter is immune from civil liability for any act or omission resulting in damage or injury to a player or participant if at the time of the act or omission all the following are met:
 - a. The person who caused the damage or injury was acting in good faith, in the exercise of reasonable and

JUDICIAL REMEDIES

CHAPTER 402

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ordinary care, and in the scope of that person's duties for the sports team.

- b. The act or omission did not constitute willful misconduct or gross negligence.
 - c. The coach, manager, or official had participated in a safety orientation and training program established by the league or team with which the person is affiliated.
2. This section does not grant immunity to:
 - a. Any person causing damage as the result of the negligent operation of a motor vehicle.
 - b. Any person for any damage caused by that person permitting a sports competition or practice to be conducted without supervision.
 - c. Any athletic coach, manager, or official providing service as part of a public or private educational institution's athletic program.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved April 1, 1987
Filed April 2, 1987



State of Rhode Island and Providence Plantations
Legislative Council

STATE HOUSE, PROVIDENCE, R. I. 02903

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SEN. JONATHAN K. FARNUM

April 14, 1988

Legislative Reference Bureau
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

Dear Miss Mardfin:

I have enclosed the following information with regard to your request concerning sports groups and immunity from liability.

(1) Chapter 307, 1987 P.L. An Act Relating to Courts and Civil Procedure. This act would provide immunity from civil liability for certain volunteers and school officials involved in athletic events. This took effect July 1, 1987;

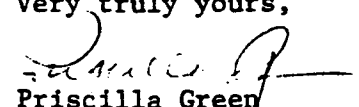
(2) Chapter 522 Sub B, An Act Relating to Courts and Civil Procedure. This act provides that the parties to a law suit wherein the damages may exceed \$150,000, consider the use of periodic payments for settlement. Pre-judgment interest is computed from four different points in time depending upon which event occurs first and is pegged to the auction price of United States treasury bills. Officers and directors of nonprofit corporations are insulated from liability except malicious or willful acts. Where the damages are likely to exceed \$100,000, provision for an expeditious hearing is provided. Members of public bodies as defined in this act are exempt from liability. A mandatory conference after the filing of a motion for new trial is included. No ad damnum clause is permitted and no sanctions for frivolous suits are provided for. This act took effect July 1, 1987;

(3) Chapter 472, An Act Relating to nonprofit corporations. This amends various provisions of the general laws relating to nonprofit corporations. This act took effect July 1, 1987; and

(4) 87H 5196 is An Act Relating to the State Income Tax which would exempt military personnel from paying Rhode Island income tax while serving on active duty outside the state. I believe this is the bill you cited in your letter, but your source must have mistaken 5196 for 5156, the number of the first bill I have cited.

I hope this information is helpful to you.

Very truly yours,


Priscilla Green
Research Assistant

within twenty-four (24) hours of the time of separation at the usual place of payment. Whenever an employer separates an employee from the payroll, the unpaid wages or compensation of such employee shall become due on the next regular payday and payable at the usual place of payment.

Whenever an employee is separated from the payroll of an employer, after completing at least one (1) year of service, any vacation pay accrued by collective bargaining, company policy or other agreement between employer and employee shall become wages and payable in full or on a prorated basis with all other due wages on the next regular payday for the employee.

Whenever an employer separates an employee from the payroll as a result of said employer liquidating the business, merging the business, disposing the business or removing the business out of state, all wages become immediately due and payable within twenty-four (24) hours of the time of separation at the usual place of payment, additionally, if said employee has completed at least one (1) year of service with said employer, holiday pay, vacation pay in full or on a prorated basis and insurance benefits due such employee under a collective bargaining agreement, company policy or other agreement between said employer and employee shall be considered as unpaid wages due and payable within twenty-four (24) hours of the time of separation at the usual place of payment.

SECTION 2. This act shall take effect upon passage.

CHAPTER 307

87-H 5156A

Approved Jun. 30, 1987.

AN ACT RELATING TO COURTS AND CIVIL PROCEDURE

It is enacted by the General Assembly as follows:

SECTION 1. CHAPTER 9-1 OF THE GENERAL LAWS ENTITLED "CAUSES OF ACTION" IS HEREBY AMENDED BY ADDING THERETO THE FOLLOWING SECTION:

9-1-48. Immunity from civil liability — Sports teams. —
(a) Notwithstanding any provisions of law to the contrary, except as otherwise provided in subsection (c) of this section, no person, who, without compensation and as a volunteer, renders services as a manager, coach, instructor, umpire, referee or official or who, without compensation and as a volunteer, assists a manager, coach, instructor, umpire, referee or official in a youth sports program organized and conducted by or under the auspices of a non-profit corporation, and no director, trustee, officer or employee of a non-profit corporation which organizes, conducts or sponsors a youth sports program, shall be liable to any person for any civil damages as a result of any acts or omissions in the rendering of such services or assistance or in the organization, conduct or sponsorship of such youth sports program unless the acts or omissions of such person were committed

in wilful, wanton or reckless disregard for the safety of the participants in such youth sports program. It shall be insufficient to impose liability upon any such person to establish only that the conduct of such person fell below ordinary standards of care.

(b) Notwithstanding any provisions of law to the contrary except as otherwise provided in subsection (c) of this section, no person who renders services as a manager, coach, instructor, umpire, referee or official or who assists a manager, coach, instructor, umpire, referee or official in an interscholastic or intramural sports program organized and conducted in accordance with and subject to the rules, regulations and jurisdiction of the Rhode Island Interscholastic League, the Committee on Junior High School Athletics, and/or the Board of Regents for Elementary and Secondary Education shall be liable to any person for any civil damages as a result of any acts or omissions in the rendering of such services or assistance unless the acts or omissions of such person were committed in wilful, wanton or reckless disregard for the safety of the participants in such interscholastic or intramural sports program.

(c) Nothing in this section shall be deemed to grant immunity to any person, corporation or other entity who or which causes injury or damage as the result of the negligent operation of a motor vehicle.

(d) For purposes of this section:

(i) The term "youth sports program" shall include any program organized for recreational athletic competition and/or instruction and whose participants are nineteen (19) years of age or younger.

(ii) The term "compensation" shall not include reimbursement for reasonable expenses actually incurred or to be incurred or, solely in the case of umpires, referees or other game officials, a modest honorarium.

(iii) The term "non-profit corporation" shall include any non-profit corporation or non-profit association organized under the law of this state, or of any other state, or of the United States, which is authorized to do business in this state.

SECTION 2. This act shall take effect upon passage.

~~SECTION 2. This act shall take effect upon passage.~~

CHAPTER 472

87-S 727B am
Approved Jul. 1, 1987.

AN ACT RELATING TO NONPROFIT CORPORATIONS

It is enacted by the General Assembly as follows:

SECTION 1. Sections 7-6-2, 7-6-6, 7-6-9, 7-6-22, 7-6-25, 7-6-31 and 7-6-34 of the General Laws in Chapter 7-6 entitled "Rhode Island NonProfit Corporation Act" are hereby amended to read as follows:

7-6-2. Definitions. — As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of this chapter, except a foreign corporation.

(2) "Director" means a member of a board of directors.

(3) "Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this state.

(4) "Nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors or officers: except as otherwise expressly permitted by this chapter.

(5) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger and special acts of the general assembly creating corporations.

(6) "By-laws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(7) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or by-laws irrespective of the name by which such person is designated.

(8) "Board of directors" means the group of persons vested with the management of the affairs of the corporation (including, without being limited to, a board of trustees) irrespective of the name by which such group is designated.

(9) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs.

7-6-6. Indemnification. — (a) As used in this section:

...

(2) "Corporation" includes:

(i) any corporation whether foreign or domestic, and whether a nonprofit or a for profit corporation all of the profits of which go to a nonprofit corporation; and

(ii) any domestic or foreign predecessor entity of the corporation in a merger, consolidation or other transaction in which the predecessor's existence ceased upon consummation of such transaction.

...

(g) No provision for the corporation to indemnify or to advance expenses to a director who is made a party to a proceeding, whether contained in the articles of incorporation, the by-laws, a resolution of shareholders or directors, an agreement or otherwise (except as contemplated by subsection (j)); shall be valid unless consistent with this section or, to the extent that indemnity hereunder is limited by the articles of incorporation, consistent therewith. The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of members or disinterested directors of otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, partner, trustee, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. Nothing contained in this section shall limit the corporation's power to pay or reimburse expenses incurred by a director in connection with his or her appearance as a witness in a proceeding at a time when he or she has not been made a named defendant or respondent in the proceeding.

...

7-6-9. Exemption from liability. — (a) An unpaid director of a corporation or any such unpaid director of a non profit agency or body created under state law shall not be individually liable for "damages" occasioned solely by reason of membership on or participation in the activities of the corporation's board of directors. As used herein, "corporation" shall mean a charitable corporation or public charitable institution formed for educational, charitable, literary, scientific, artistic, social, musical, agricultural, theatrical or sporting purposes and not organized for business or profit and all organizations of like nature.

(a) No person serving without compensation as a director, officer or trustee of a nonprofit corporation, including a corporation qualified as a tax-exempt corporation under section 501 (c) of the United States Internal Revenue Code, shall be liable to any person based solely on his or her conduct in the execution of such office unless the conduct of such director, officer, or trustee with respect to the person asserting such liability constituted malicious, willful or wanton misconduct. As used in this section, "compensation" does not include a per diem on per meeting allowance, health insurance benefits or reimbursement for out of pocket costs and expenses incurred in such service.

(b) A corporation, its officers, directors, agents, servants, and employees shall not be liable for bodily injury to any person incurred while such person is practicing for, or participating in, any contest or exhibition of an athletic or sports nature sponsored by the corporation; provided such person has, or in the case of a minor, a parent or guardian of such minor has, signed a written waiver of liability

of the corporation and acknowledgement of assumption of risk with respect to such practicing for, or participating in, any contest or exhibition of an athletic or sports nature sponsored by the corporation.

7-6-22. Board of directors. — (a) The affairs of a corporation shall be managed by a board of directors. Directors need not be residents of this state or members of the corporation unless the articles of incorporation or the by-laws so require. The articles of incorporation or the by-laws may prescribe other qualifications for directors.

(b) A director shall discharge his or her duties as a director, including his or her duties as a member of a committee:

- (1) in good faith;
- (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) in a manner he or she reasonably believes to be in the best interests of the corporation.

(c) In discharging his or her duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or

(3) a committee of the board of directors of which he or she is not a member if the director reasonably believes the committee merits confidence.

(d) A director is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) unwarranted.

(e) A director is not liable for any action taken as a director, or any failure to take any action, if he or she performed the duties of his or her office in compliance with this section.

7-6-25. Quorum of directors. — A majority of the number of directors fixed by the by-laws, or in the absence of a by-law fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the by-laws; but in no event shall a quorum consist of less than one-third (1/3) one-quarter (1/4) of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by this chapter, the articles of incorporation or the by-laws.

7-6-31. Dividends prohibited. — A corporation may issue shares to its members but no dividend shall be paid thereon and no part of the income or profit of a corporation shall be distributed to its members, directors or officers, except

that dividends may be paid and income or profit may be distributed to its members by a corporation all of the members of which are corporations to which this chapter applies. A corporation may pay compensation in a reasonable amount to its members, directors, or officers for services rendered, may confer benefits upon its members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its members as permitted by this chapter, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income or profit.

7-6-34. Articles of incorporation. — (a) The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration, which may be perpetual.
- (3) The purpose or purposes for which the corporation is organized.

(4) Any provisions, not inconsistent with the law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including a provision eliminating or limiting the personal liability of a director to the corporation or to its members for monetary damages for breach of the director's duty as a director; provided that such provision shall not eliminate or limit the liability of a director:

(i) for any breach of the director's duty of loyalty to the corporation or its members;

(ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

(iii) for any transaction from which the director derived an improper personal benefit, and also including any provision for distribution of assets on dissolution or final liquidation: which under this chapter is required or permitted to be set forth in the by-laws. No such provision eliminating or limiting the personal liability of a director will be effective with respect to causes of action arising prior to the inclusion of the provision in the articles of incorporation of the corporation.

(c) Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the by-laws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a by-law, the provision of the articles of incorporation shall be controlling.

SECTION 2. There is hereby created a special legislative commission consisting of eleven (11) members: three (3) of whom shall be from the house of representatives, not more than two (2) from the same political party to be appointed by the speaker; three (3) of whom shall be from the senate, not more than two (2) from the same political party to be appointed by the majority leader; one (1) of whom shall be the presiding justice of the superior court, or his designee; one (1) of whom shall be the director of the department of business regulation or his designee; three (3) of whom shall be representatives of the general public, to be appointed by the governor.

Members of the general public may be appointed in lieu of legislators, provided that at least one (1) member shall be appointed from the house and one (1) from the senate, and said appointments shall be made by the same authority as for the legislators supplanted.

The purpose of said commission shall be to study the feasibility of providing civil immunity for qualified volunteers of nonprofit organizations for good faith acts or omissions.

Forthwith upon the passage of this act, the members of the commission shall meet at the call of the speaker of the house and organize and shall select from among the legislators a chairperson. Vacancies in said commission shall be filled in like manner as the original appointment.

The membership of said commission shall receive no compensation for their services.

All departments and agencies of the state shall furnish such advice and information, documentary and otherwise, to said commission and its agents as is deemed necessary or desirable by the commission to facilitate the purposes of this act.

The speaker of the house is hereby authorized and directed to provide suitable quarters for said commission and the commission shall report its findings and recommendations to the general assembly on or before April 8, 1988 and said commission shall expire on June 8, 1988.

SECTION 8. This act shall take effect upon passage and shall apply to all causes of action arising on or after that date.

the performance of duty, and that such disability is not the result of wilful negligence or misconduct on the part of said member, and is not the result of age or length of service, and that such member has not attained the age of sixty-five (65), and that such member should be retired, the physicians who conducted the examination shall so certify to the retirement board stating the time, place and conditions of such service performed by said member resulting in such disability and the retirement board may grant the said member an accidental disability benefit.

SECTION 2. This act shall take effect July 1, 1987.

CHAPTER 522

87-H 5885B am
Approved Jul. 1, 1987.

AN ACT RELATING TO COURTS AND CIVIL PROCEDURE

It is enacted by the General Assembly as follows:

SECTION 1. CHAPTER 9-21 OF THE GENERAL LAWS ENTITLED "JUDGMENTS, ORDERS AND DECREES" IS HEREBY AMENDED BY ADDING THERETO THE FOLLOWING SECTION:

9-21-13. Tort judgments. — In any legal action based upon a cause of action arising for personal injury, property damage or wrongful death in which damages, if liability is proved, are likely to be in excess of one hundred fifty thousand dollars (\$150,000), the parties shall consider the use of periodic payments as means of settlement.

SECTION 2. CHAPTER 9-21 OF THE GENERAL LAWS ENTITLED "JUDGMENTS, ORDERS AND DECREES" IS HEREBY AMENDED BY ADDING THERETO THE FOLLOWING SECTION:

9-21-10.1. Interest in civil actions arising on or after July 1, 1987. — Notwithstanding the provisions of section 9-21-10 of the general laws, in any civil action based upon a cause of action arising on or after July 1, 1987, in which a verdict is rendered or a decision is made for pecuniary damages, there shall be added by the clerk of the court to the amount of damages, interest at the rate as set out herein. Such interest shall be calculated to the date of the entry of the judgment, at a rate equal to the average of the coupon issued yield equivalent as determined by the secretary of the treasury of the average accepted auction price for the auctions of fifty-two (52) week United States treasury bills from the date interest began to accrue to the date of the judgment. Interest shall be computed daily to the date of payment and shall be compounded annually. Interest shall be calculated to the date judgment is entered from the earliest of the following as determined by the court:

(1) the date of written notice of the claim by the claimant or his/her representative to the defendant or his/her representative or agent or the defendant's insurer or its representative or agent, or

(2) the date the defendant or his/her representative or agent or the defendant's insurer or its representative first received actual notice of the cause of action, or

(3) the date of the filing of the civil action, or

(4) seven (7) days from the date of the accrual of the cause of action in instances wherein the claimant is mentally and/or physical unable to provide written notice of the claim to the defendant or his/her representative, as a result of the injury sustained at the claimant which constitutes said cause of action, provided such written notice is provided by the claimant within the period of the applicable statute of limitations upon removal of such mental and/or physical disability.

SECTION 3. Section 7-6-9 of the General Laws in Chapter 7-6 entitled "Rhode Island Non-Profit Corporation Act" is hereby amended to read as follows:

7-6-9. Exemption from liability. — (a) An unpaid director of a corporation or any such unpaid director of a non-profit agency or body created under state law shall not be individually liable for "damages" occasioned solely by reason of membership on or participation in the activities of the corporation's board of directors. As used herein, "corporation" shall mean a charitable corporation or public charitable institution formed for educational, charitable, literary, scientific, artistic, social, musical, agricultural, theatrical or sporting purposes and not organized for business or profit and all organizations of like nature:

(a) No person serving without compensation as a director, officer or trustee of a nonprofit corporation, including a corporation qualified as a tax-exempt corporation under section 501 (c) of the United States Internal Revenue Code, shall be liable to any person based solely on his or her conduct in the execution of such office unless the conduct of such director, officer, or trustee with respect to the person asserting such liability constituted malicious, willful or wanton misconduct. As used in this section, "compensation" does not include a per diem or per meeting allowance, health insurance benefits or reimbursement for out of pocket costs and expenses incurred in such service.

(b) A corporation, its officers, directors, agents, servants, and employees shall not be liable for bodily injury to any person incurred while such person is practicing for, or participating in, any contest or exhibition of an athletic or sports nature sponsored by the corporation; provided such person has, or in the case of a minor, a parent or guardian of such minor has, signed a written waiver of liability of the corporation and acknowledgement of assumption of risk with respect to such practicing for, or participating in, any contest or exhibition of an athletic or sports nature sponsored by the corporation.

SECTION 4. CHAPTER 9-2 OF THE GENERAL LAWS ENTITLED "PARTIES" IS HEREBY AMENDED BY ADDING THERETO THE FOLLOWING SECTION.

9-2-20. Acceleration of actions. — Any civil action filed for personal injury, property damage or wrongful death in which the parties agree that the damages, if liability is proven, are likely to be in the sum of one hundred thousand dollars (\$100,000) or more, or if the court upon motion by either party finds that the damages, if liability is proven, are likely to be in the sum of one hundred thousand dollars (\$100,000) or more, shall be given priority for expedited hearing. This

section shall not be construed so as to preclude adequate time for reasonable discovery.

SECTION 5. CHAPTER 9-1 OF THE GENERAL LAWS ENTITLED "CAUSES OF ACTION" IS HEREBY AMENDED BY ADDING THERETO THE FOLLOWING SECTION.

9-1-31.1. Members of public bodies — Exemption from liability. — (A) The following words and terms shall have the following respective meanings, unless the context clearly indicates a different meaning.

(1) "Public body" means any branch, department, division, agency, commission, committee, board, council, bureau, authority or any subdivision thereof, of state government or any other public agency or public body corporate of the state of Rhode Island or any political subdivision thereof.

(2) "Qualified member" means an individual who serves without monetary or other compensation as a member of a public body for the purpose of setting policy, controlling, or otherwise overseeing the activities or functional responsibilities of such public body. As used in this section, "compensation" does not include a per diem or per meeting allowance, health insurance benefits or reimbursement for out-of-pocket costs and expenses incurred in such service.

(B) Limitation of liability. Notwithstanding any other law, a qualified member of a public body shall not be held civilly liable for any breach of his or her duties as such member provided that nothing herein contained shall eliminate or limit the liability of a qualified member:

(1) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

(2) for any transaction from which such member derived an improper personal benefit; or

(3) for any malicious, willful or wanton act.

SECTION 6. Section 9-21-12 of the General Laws in Chapter 9-21 entitled "Judgments, Orders and Decrees" is hereby amended to read as follows:

9-21-12. Malpractice judgments: Mandatory conference to consider periodic payments of judgment. — In any legal action based upon a cause of action arising on or after January 1, 1987, for personal injury or wrongful death filed against a licensed physician, hospital, clinic, health maintenance organization, professional service corporation providing health care services, dentists or dental hygienist based on professional negligence in which damages, if liability is proven, are likely to be in excess of one hundred thousand (\$100,000) dollars, the parties shall consider the use of periodic payments as a means of settlement.

In any action to recover damages for personal injury, injury to property or wrongful death, for which a judgment of one hundred fifty thousand (\$150,000) dollars or more is entered, a post judgment conference shall be held after the court has decided any motion for new trial whether such motion be for retrial on liability and damages or for additur or remittitur at which the trial judge, plaintiff(s)'s counsel and defendant(s)'s counsel shall be present. The conference will be for the

purpose of determining the viability of a voluntary agreement for payment of the judgment in periodic installments.

SECTION 7. Section 9-1-30 in Chapter 9-1 of the General Laws entitled "Causes of Action" is hereby amended to read as follows:

9-1-30. Demand for judgment against medical entity — Exclusion of monetary amount. Demand for judgment in an action alleging personal injury, injury to property or wrongful death. — Exclusion of monetary amount. — No complaint or pleading, in any action of contract or tort for malpractice, error or mistake against a licensed physician as defined in section 5-37.1-1; hospital clinic, health maintenance organization or professional service corporation providing health care services and organized under chapter 5-1 of title 7, shall contain an ad damnum or monetary amount claimed against such defendant or defendants; provided, however, that in an action brought before the superior court, the complaint shall state that the monetary amount claimed is sufficient to establish the jurisdiction of the superior court.

(1) No complaint or pleading, in an action of contract or tort for personal injury, injury to property or wrongful death, shall contain an ad damnum or monetary amount claimed against any defendant or defendants provided however, that in any action brought before the superior court, the complaint shall state that the monetary amount claimed is sufficient to establish the jurisdiction of the superior court.

SECTION 8. Section 9-29-21 in Chapter 9-29 of the General Laws entitled "Fees" is hereby amended to read as follows:

9-29-21. Sanctions for frivolous malpractice suits: Sanctions for frivolous suits. — In any legal action based upon a cause of action arising on or after January 1, 1987, for personal injury or wrongful death filed against a licensed physician, hospital, clinic, health maintenance organization, professional service corporation providing health care services, dentists or dental hygienist based on professional negligence, the court may, upon motion or upon its own initiative, in instances in which any party or the attorney representing the party signs a pleading, motion or other paper which is not well grounded in fact, or is not warranted by existing law or a good faith argument for the extension or modification or reversal of existing law, or which is interposed for any improper purpose such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, impose upon the person who signed it, the represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

In any legal action based upon a cause of action arising on or after July 1, 1987, every pleading, motion and other paper of a party represented by an attorney shall be signed by at least one (1) attorney of record in his individual name, whose address and telephone number shall be stated. A party who is not represented by an attorney shall sign his pleading, motion or other paper and state his address and telephone number. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certificate by him that he has read

the pleading, motion or other paper; that to the best of his knowledge, information and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee.

SECTION 9. Section 5-37-9 of the General Laws in Chapter 5-37 entitled "Board of Medical Licensure and Discipline" is hereby amended to read as follows:

5-37-9. Reports relating to professional conduct and capacity — Regulations — Confidentiality — Immunity. —

In addition to the requirements of section 42-14-2.1:

(1) The board with the approval of the director may adopt regulations requiring any person, including, but not limited to, corporations, health care facilities, health maintenance organizations, organizations and federal, state, or local governmental agencies, or peer review boards to report to the board any: Conviction, determination, or finding that a licensed physician has committed unprofessional conduct as defined by section 5-37-5.1 as now or hereafter amended, or to report information which indicates that a licensed physician may not be able to practice medicine with reasonable skill and safety to patients as the result of any mental or physical condition. Said regulations shall include the reporting requirements of subsection 2 (a), (b) and (c).

(2) The following reports in writing shall be filed with the board:

(a) Every insurer providing professional liability insurance to a physician licensed under the provisions of this chapter shall send a complete report to the board setting forth any formal notice of any claim, settlement of any claim or cause of actions, or final judgment rendered in any cause of action for damages for death or personal injury caused by such physicians negligence, error or omission in practice or his rendering of unauthorized professional services. Such report shall be sent within thirty (30) days after service of such complaint or notice, settlement, judgment or arbitration award on the parties. All such reports shall set forth in depth factual summary of the claim in question.

(b) All hospital and licensed health care facilities including, but not limited to, nursing homes and health maintenance organizations and the division of drug control must report to the board within thirty (30) days of such action, any action, disciplinary or otherwise, taken for any reason, which limits, suspends or revokes a physician's privilege to practice or requires supervision of a physician, either through formal action by the institution or facility or through any voluntary agreement with the physician.

(c) Within ten (10) days after a judgment by a court of this state that a physician licensed under the provisions of this chapter has been convicted of a crime or is civilly liable for any death or personal injury caused by his negligence, error or omission in his practice or his rendering unauthorized professional services, the clerk of the court which rendered such judgment shall report same to the board.

(3) The board shall publicly report any change of privilege, of which, it is aware, to the board of trustees or other appropriate body of all licensed hospitals, licensed health care facilities, and health maintenance organizations and such other parties as the board shall deem appropriate within thirty (30) days, provided, however that notwithstanding the provisions of this subparagraph 3, the board may, in instances where the change of privilege is not related to quality of patient care, elect not to disseminate said report of change in privilege. Such an election may be made in executive session and no decision not to disseminate shall be made except by majority vote of the members present at the meeting and only upon a finding of fact by the board after inquiry that the change of privilege was not related to quality of patient care.

(4) The contents of any report file shall be confidential and exempt from public disclosure, except that it may be reviewed:

(a) by the licensee involved or his counsel or authorized representative who may submit any additional exculpatory or explanatory statements or other information, which statements or other information shall be included in the file, or

(b) by the chief administrative officer, a representative of the board, or investigator thereof, who has been assigned to review the activities of a licensed physician.

(5) Upon determination that a report is without merit, the board's records may be purged of information relating to the report.

(6) If any person refuses to furnish a required report, the board may petition the superior court of any county in which said person resides or is found, and said court shall issue to such person an order to furnish the required report. Any failure to obey such order shall be punished by the court as a civil contempt may be punished.

(7) Every individual, medical association, medical society, hospital, health care facility, health maintenance organizations, peer review board, medical service bureau, health insurance carrier or agent, professional standards review organization, and the agency of the federal, state, or local government shall be immune from civil liability, whether direct or derivative, for providing information in good faith to the board pursuant to this statute or the regulations outlined in subsection (1) or requirements of subsection (2) of this section.

(8) Nondisclosure agreements are prohibited in so far as they forbid parties from making reports regarding competency and/or unprofessional conduct to the board of medical licensure and discipline.

(9) The board with the approval of director shall promulgate rules and regulations setting forth standards for hospital or health maintenance organization supervision of physicians by peer review committees. Such regulations, including without limiting the generality thereof, shall require that each hospital or health maintenance organization, as the case may be, shall report annually to the board the activities, findings, studies and determinations of its peer review committees.

SECTION 10. This act shall take effect on July 1, 1987.



COMMONWEALTH of VIRGINIA

DIVISION OF LEGISLATIVE SERVICES

General Assembly Building
910 Capitol Street

JOHN A. BANKS, JR.
DIRECTOR

POST OFFICE BOX 3-AG
RICHMOND VIRGINIA 23208

IN RESPONSE TO
THIS LETTER TELEPHONE
(804. 786-3591)

April 19, 1988

Ms. Jean Mardfin, Researcher
Legislative Reference Bureau
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

Re: Immunity for Non-profit Sports Organizations

Dear Ms. Mardfin:

As requested, enclosed is a copy of House Bill No. 1226, 1987 Session, which sought to grant immunity to persons donating time to non-profit sports organizations such as coaches, etc.

The Virginia General Assembly considered two similar bills during the 1988 Session, however, both of these bills died in committee (see enclosed, HB 671 and SB 58).

Sincerely,

Mary K. Geisen
Research Assistant

MKG/sms
Enclosures

1988 SESSION

LD0686120

SENATE BILL NO. 58

Offered January 15, 1988

A BILL to amend the Code of Virginia by adding a section numbered 8.01-225.1, relating to immunity from liability involving nonprofit sports.

Patron—Gray

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-225.1 as follows:

§ 8.01-225.1. Immunity from liability involving nonprofit sports.—Any person who, in good faith and without compensation, renders services as staff, manager, coach, instructor, umpire or referee of a nonprofit sports program, shall be immune from civil liability for damages to a player or participant resulting from any act or omission in the performance of his duty as such, unless the act or omission was done or made in bad faith, with malicious intent or in a manner exhibiting a willful, wanton disregard of the rights, safety or property of another.

As used in this section:

"Compensation" does not include reimbursement for reasonable expenses actually incurred, and in the case of umpires or referees, does not include a modest honorarium.

"Nonprofit sports program" means a program that is organized for recreational purposes and primarily for participants who are (i) less than nineteen years of age at the beginning of the competitive season or (ii) physically or mentally handicapped. The term includes organized sports competitions and practice and instruction in a sport, but does not include sports programs of a public school district or private elementary or secondary school.

Official Use By Clerks

Passed By The Senate

without amendment ☐
with amendment ☐
substitute ☐
substitute w/amdt ☐

Passed By
The House of Delegates

without amendment ☐
with amendment ☐
substitute ☐
substitute w/amdt ☐

Date: _____

Date: _____

Clerk of the Senate

Clerk of the House of Delegates

1988 SESSION

LD0355449

HOUSE BILL NO. 671

Offered January 26, 1988

A BILL to amend the Code of Virginia by adding a section numbered 8.01-225.1, relating to exemptions from liability involving nonprofit sports.

Patrons—Cunningham, R. K., Callahan, Woods, Crenshaw, Finney, Stafford, Watkins, Guest, Hargrove, Brown, Andrews and Rollison; Senator: Saslaw

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-225.1 as follows:

§ 8.01-225.1. Exemptions from liability involving nonprofit sports.—No sponsoring organization or person, who in good faith and without compensation renders services as a sponsor or member of the staff of a nonprofit sports program, shall be liable for any civil damages resulting from any act or omission in the performance of his duty as a sponsor or staff member unless such sponsor or staff member knew or had reason to know that the act or omission created a substantial risk of actual harm to the person or property of another and unless the conduct of such sponsor or member fell substantially below the standards generally practiced in similar circumstances.

Official Use By Clerks

Passed By

The House of Delegates

without amendment ☐
with amendment ☐
substitute ☐
substitute w/amdt ☐

Passed By The Senate

without amendment ☐
with amendment ☐
substitute ☐
substitute w/amdt ☐

Date: _____

Date: _____

Clerk of the House of Delegates

Clerk of the Senate

1987 SESSION

LD5634449

HOUSE BILL NO. 1226

Offered January 23, 1987

A BILL to amend the Code of Virginia by adding a section numbered 8.01-225.1, relating to exemptions from liability involving nonprofit sports.

Patrons—Cunningham, R. K., Dillard, Medico, Keating, Byrne, Gordy, Andrews, Mayer, Brickley, Purkey, Callahan, Brown, Crenshaw, Thomas, Tata, Guest, Giesen, Parrish, Dickinson, Abbitt, Axelle, Woodrum, Copeland, Stieffen, Hanger, Moncure, Watkins, Hargrove, Slayton, Dobyns, Diamonstein and Reynolds; Senators: DuVal and Saslaw

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-225.1 as follows:

§ 8.01-225.1. Exemptions from liability involving nonprofit sports.—No person, who in good faith and without compensation renders services as a member of the staff of a nonprofit sports program, shall be liable for any civil damages resulting from any act or omission in the performance of his duty as a staff member unless such staff member knew or had reason to know that the act or omission created a substantial risk of actual harm to the person or property of another and unless the conduct of such member fell substantially below the standards generally practiced in similar circumstances.

Official Use By Clerks

Passed By
The House of Delegates
without amendment ☐
with amendment ☐
substitute ☐
substitute w/amdt ☐

Passed By The Senate
without amendment ☐
with amendment ☐
substitute ☐
substitute w/amdt ☐

Date: _____

Date: _____

Clerk of the House of Delegates

Clerk of the Senate

