

Advocacy

State Volunteer Liability Legislation

By Stephen McCurley

The following chart provides a brief synopsis of the recent state legislation that has passed concerning volunteer liability. (For background, see "Protecting Volunteers from Suit: A Look at State Legislation" in the

spring/summer 1987 VAL). The chart is based on information sent to us, which means that some states that have passed recent legislation may have been inadvertently omitted and that some information about the particulars of the specific legis-

lation was not fully available to us at the time the chart was completed.

If you know of any additional information about state legislation, please send it to Kay Drake-Smith, Director of Information Services, at VOLUNTEER. We will include it in an update in a future VAL. If possible, we would appreciate receiving a copy of the complete text of the legislation.

You may find it helpful to refer to the article on state volunteer legislation in the spring/summer 1987 VAL, which more fully explains some of the categories utilized in this chart.

The chart is provided for general informational purposes only. We highly recommend that you obtain a copy of the law for your own state, read the complete version, and compare it to your own situation. If you have any questions about its applicability to your situation, consult with a local attorney.

Many thanks to all of you who already have helped by sending copies of your state legislation. This chart would not have been possible without you.—SM

STATE	REFERENCE	ORG. COVERAGE	VOL. COVERAGE	PROTECTION X = Exception
Alaska	§09.17.050 86	NP corp; public or NP hospital; school Bd; municipal Bds	Board, commission	X-gross negligence; X-to corporation
Arizona	§36-919 86	Ch & NP Corp involved in food distribution	Officer; Volunteer; Organization	X-gross, reckless, intentional misconduct
	Ch129 §10-1017 87	NP Corp	Board	X-willful, gross conduct; x-to corporation, members
Arkansas	Act 390 of 87	St/local govt; com vol org or 501(3)(3)	"any person who provides goods or services w/o financial compensation"	Not vicariously liable; not liable acts/omission; X-to extent of insurance for ordinary neg; X-bad faith, gross negligence; X-operation of motor vehicle, boat, etc.; X-professional licensed services
California	Ch 720, §5231.5 86	NP public benefit corp	Board	Act in good faith, best interests, prudent care
Colorado	CRS13-21-116 86	NP corp	Board	X-wanton or willful act
	CRS13-21-116(2)(a) 86	Ind; corp; assoc; partnership	All acting for benefit of another or to protect health or safety	Act in good faith
Connecticut	PL86-338(10) 86	501(c)	Board	Act in good faith, within scope; X-willful, wanton misconduct
Delaware	Ch81, title10 §133 86	501(c)	"trustee, director, officer, agent, worker"	No civil damages for any negligence
Florida	HB1096 87 FS607.1645	NP orgs	Board	?

Ch = charitable; NP = nonprofit; St = state

STATE	REFERENCE	ORG. COVERAGE	VOL. COVERAGE	PROTECTION
Hawaii	HRS416 86	NP corp	Board	X-gross negligence
Illinois	PL84-1431 Art 1 86	Local public entity	Bd, commission, volunteer	X-willful, wanton act
	PL84-1431 Art 7 86	501(c)	Board	X-willful, wanton act
	HB1555 87	NP orgs	Board, vols	X-willful, wanton act
Indiana	IC34-4-11.5-1 86	St/local govt; NP corp; business trade assn	Board, commission	Liability limited to ins coverage; if no coverage, then immune
Kansas	SB28 87	501(c), X-med care	Bd; "other person who performs services"	X-authorizes, approves actively participates + willful, wanton, intent; X-only to extent of ins
Louisiana	RS9:2792 72	Public, charitable or NP hospital or org	Board	Not liable to any who receive benefits
Massachusetts	Ch156B §13 86	Corp	Director, officer	Articles of org may eliminate or limit liability to corp or membership; X-breach of loyalty, bad faith, intent, conflict of int; X-only to shareholders or members
Maryland	Ch643 §5-312 86	501(c)(3)	Board; vol employee	Org must carry ins; X-malice, gross negligence; X-to Att Gen
Michigan	MCL691.1401 86	St/local agency, pol. sub-division	Bd; commission, volunteer—must be "specifically designated"	X-gross negligence; X-hospital or med care facilities
	MCL450.1561 87	Corp	Board	right to indemnification; no immunity
Minnesota	Ch455 §317.201 87	NP org	"Director, officer, trustee, member or agent"	X-good faith, within scope; X-willful, reckless; X-to govt entity; X-to org; X-cause based on federal law; X-based on contractual obligation (amends §317.201)
Missouri	RSMo537.037 86	Any person	Emergency care	If trained in first aid, X-gross negligence, willful, wanton acts
Nebraska	LB 67 of 87	501(c)(2,3,4,5,7,8,11 or 19)	Board	Act within scope; X-willful, wanton acts; X-to corp; X-vehicle or alcohol related
New Hampshire	RSA216-A:3-h 86	Govt	Parks vols under supervision	Covered by state tort claims protection
	RSA508:15 86	Person, corp, org involved in food distribution	Vols, org	X-gross, reckless conduct
New Jersey	NJSA 2A: 62A-6 86	NP org	Sports vols	Not liable to player or participant if trained, acting w/supervision; X-in ed. inst; X-motor vehicle; X-willful, wanton
New York	NY Laws 375 §§11-13 86	501(c)	Board	X-gross negligence, intent
Nevada	NRS411.480 87	NP corp, assn, org	Board	X-intent, fraud or knowing violation of law
North Carolina	HB152 87 Art43-b §1-539.10	501(c)(3)	Direct service vol	Good faith and reasonable; X-gross, wanton, intent; X-motor vehicle

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North Dakota	HB1079 87	501(c)(3,4,5,6,7,10,19)	Board	Act in good faith, scope; X-willful, gross; X-reimbursement of expenses above \$2,000; X-receipt of compensation
	HB1080 87	NP orgs	Volunteer	Act in scope; X-willful, gross; X-vehicle
		NP orgs	Sports vols	Act within scope; participated in training and safety program; X-willful, gross; X-vehicle; X-exercising supervision; X-part of ed. inst.
Ohio	ORC2305.38 86	Non-hosp, char NP corp under ORC1702	Bd; volunteer	X-prior knowledge and approval, or ratification; X-willful, wanton, or intentional
Oklahoma	Title 18, §865 86	501(c)	Board	Not responsible for acts of employees or other directors; X-own negligence or intent
Pennsylvania	Title 42 §8332.1 86	NP assn	Sports vol	X-below generally practiced standards; X-transportation; X-relate to care of playing area
	Title 42, §8332.2 86	501(c)(3)	Board	X-below generally practiced standards
South Dakota	§23A-28-11 86	Any recipient of community service defendants	Orgs	X-gross negligence, willful, wanton; and only to extent of insurance
	Ch47-23 87	501(c); hosp	Board	X-willful, wanton
	HB1317 87	(501)(a), 501(c), hospital, govt entity	Board, service vol, commission	Act in good faith & within scope; X-willful, wanton; X-motor vehicle; X-to extent of ins (X-for board)
Tennessee	§28-3-301 86	501(c)(3),(c)(6)	Board	X-willful, wanton, gross
	29-20-201 86	Govt boards, commissions	Board	X-willful, wanton, gross
Texas	Title 4, Ch 84 §84.001 87	501(c)(3,4), except health-care provider	Board; vol	Act in good faith & within scope of duties; X-motor vehicle (to extent of insurance); X-intent, willful, wanton; X-Bd member liability to org and members
Virginia	§13.1-870.1 87	NP corp	Board	Liable only to amount of compensation
Vermont	S37 87	501(c)(3)	Board	Good faith; X-willful, wanton
Washington	RCW4.24 sec 86	NP corp	Board	X-gross negligence; X-to corp
	RCW7.70 86	Pub or private hosp	Board	Not responsible for care by health care provider; X-gross negligence in granting privilege
Wisconsin	AB301 87	NP org	Board; vols	?
Wyoming	WS1-23-107 86	NP corp; gov	Board, commission	X-intentional tort or illegal acts

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