

STATE VOLUNTEER LIABILITY LEGISLATION

Stephen McCurley

6/29/89

STATE	REFERENCE	ORG COVERAGE	VOL COVERAGE	PROTECTION X = Exception
AL	S233 87	501(c), St/local govt	Board, Adv board	Xwillful, wanton, gross; Xfraud, or bad faith; Xmotor vehicle
AK	§09.17.050 86	NP corp; public or NP hospital; school Bd; municipal Bds (NP corp = 501c3 or c4)	Board, commission	Xgross negligence Xto corporation
AZ	§36-919 86	Ch & NP Corp involved in food distribution	Officer; Volunteer; Organization	Xgross, reckless, intent
	Ch129 §10- 1017 87	NP Corp	Board	Xwillful, gross; must amend Articles of Incorporation to qualify; Xto corporation and members
AR	Act 390 of 87	St/local govt; com vol org, or 501(c)(3)	"any person who provides goods or services w/o finan- cial compensation"	Not vicariously liable; Not liable acts/omission Xto extent of insurance for ordinary neg; Xbad faith, gross negligence; Xoperation of motor vehicle, boat, etc; Xprof licensed services; Protection limited to beneficiary of vol's services
CA	Ch1206, §5239, §7231.5 §9247 87	NP public benefit corp; religious corporation;	Board	Act in good faith; Xwanton, intent, gross; must have insurance; Xto corporation; Xto Att Gen
	SB1755 & SB1420 88 CA Corp Code §5047.5	501(c)(3,6)	Board	Within scope; xgross, reckless; Good faith; part of 'policy-making duties'; Org must have insurance; Xself-dealing Xactions involving discrimination
CO	CRS13-21-116	NP corp	Board	Xwanton 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
CT	PL86-338(10) 86	501(c)	Board	Act in good faith, within scope; Xwillful, wanton
DE	Ch81, title 10 §8133 86	501(c)	"trustee, director, officer, agent, worker"	No civil damages for any negligence Xmotor vehicle to extent of insurance
	H411 86	NP	Sports vols	?
	Ch68, title 16 part IV, subchap VI 87	501(c)	Org, staff, Board	No liability in construction or maintenance of parkland
FL	HB1096 87 FS607.1645	501(c) (3,4,5,6)	Board	Xbreach of duties; Xviolation of criminal law; Xderive improper benefit; Xrecklessness, bad faith, willful, wanton
GA	H209 87 14-3-113.1	NP corp	Board	Act in good faith, like ordinarily prudent person (No additional liability protection)
HA	HRS416 86	NP corp	Board	Xgross negligence
IA	25A.24 87	State Govt	Commission, volunteer	Xintentional misconduct, knowing violation of law, or transaction in which derives improper benefit
	613A.2 87	Municipality	Commission, volunteer	Xintentional misconduct, knowing violation of law, or transaction in which derives improper benefit
	SF471 87 §613.19	NP Corp; unincorporated association	Board, Volunteer	Xintentional misconduct, knowing violation of law, or transaction in which derives improper benefit
	HF630 87 232.13	State govt	Com Service Vol	State accepts liability for child given

				community work assignment
IL	PL84-1431 Art 1 86	Local public entity	Bd, commission, volunteer	xwillful, wanton
	PL84-1431 Art 7 86	501(c)	Board	Xwillful, wanton
	Ch 32 §108.70 87	501(c)(3)	Board, Vols	Xwillful, wanton: Xto corporation
IN	IC34-4-11.5-1 86	St/local Govt; NP corp; Business trade assoc	Board, commission	Liability limited to Ins coverage; if no coverage, then immune
KS	SB28 87	501(c)	Bd; "other person who performs ser- vices"; Xvolunteer who delivers health care services in medical facility	Xauthorizes, approves actively participates + willful,wanton, intent; Xonly to extent of insurance
	HB2023 87	State, local govt	Adv board	Xfraud or malice if acting within scope
			Volunteers	Covered under State Tort Claims Act
KY	HB307 Ch 411, §1 88	501(c)	Board, vols not compensated by salary or on pro-rated equivalent basis	Good faith, within scope; Xwillful, wanton
LA	RS9:2792 72	Public, charitable or NP hospital, or organization	Board; 'member'	Not liable to any who receive benefits
MA	Ch156B §13 86	NP Corporation	Director, officer	Articles of organization may eliminate or limit liability to corp or membership Xbreach of loyalty, bad faith, intent, conflict of int. Xonly to shareholders or members
	Ch231 §85W 87	NP Ch org, 501(c)(3)	Board	Xgross negligence, intent; Xrelated to commercial activities; Xvehicle
	Ch231 §85K 87	Educational inst 501(c)(3)	Board	Good faith, scope of duties; Xwillful,

				wanton; Xvehicle
MD	Ch643 §5-312 8 6	501(c)(3)	Board; vol employee	Org must carry Ins; Xmalice, gross negligence, Xto Att Gen Xhealth care mal- practice
MI	MCL691.1401 8 6	St/local agency, pol. sub-division	Bd; commission, volunteer - must be "specifically designated"	Xgross negligence Xhospital or med care facilities
	MCL450.1561 8 6	Corporation, including NP	Board	Right to indemnification; Corp can eliminate liability to Corp or to shareholders Xbreach of duty, Xbad faith or intent or conflict of interest
	Public Act 170 8 7	NP orgs	Board	Protects from suits by corporation or 3rd parties. Org must amend Articles of Incorporation to qualify. Good faith requirement.
MN	HF141 87	NP org exempt under MS240.05	"Director, officer, trustee, member or agent"	Good faith, within scope, Xwilfull, reck- less, Xto govt entity, Xto org, Xcause based on federal law, Xbased on contractual obliga- tion
MO	RSMo537.037 8 6	Any person	Emergency care	If trained in first aid, Xgross negligence, willful, wanton acts
NB	LB 67 of 87	501 (c)(2,3,4,5,7,8,11 or 19)	Board	Act within scope; Xwilfull, wanton; Xto corporation; Xvehicle or alcohol related
NC	HB152 87 Art43-B §1- 539.10	501(c)(3)	Direct service vol	good faith & reasonable; Xgross, wanton, intent; Xmotor vehicle; Xprof services above extent of insurance
	SB 771 87	Rel society; fraternal society	Board vols	Within scope; acting in

		NP Corp		good faith; Xgross neg, willful, wanton; Ximproper benefit; Xmotor vehicle
ND	§10-24-05 subsection 87	501(c) (3,4,5,6,7,10,19)	Board	Act in good faith, scope; Xwillful, gross; Xreimbursement of expenses above \$2000; Xreceipt of compensation
	HB1080 87	NP orgs	Volunteer	Act in scope; Xwillful, gross; Xvehicle
		NP orgs	Sports vols	Act within scope; participated in training and safety program; Xwillful, gross; Xvehicle; Xexercising supervision; Xpart of educational institution
NH	RSA216-A: 3-h 86	Govt	Parks volunteers under supervision	Covered by state tort claims protection
	RSA 508.16 86	Ch orgs & societies	Board	Good faith, Xwillful, wanton
	RSA508:15	Person, corp, org in food distribution	Volunteer, Org	Xgross, reckless
NJ	NJSA 2A: 62A-6 86	NP org	Sports volunteer	Not liable to player or participant if trained, acting w/supervision; Xin educational inst; Xmotor vehicle; Xwillful wanton
	2A:53A-7 87	NP corp, society, association; NP federation	Board, volunteer	Xreckless disregard; Xwillful, wanton; Xmotor vehicle
NY	NY Laws 375 §§11-13 86	501(c)	Board	Xgross negligence, intent; Xto corporation
NV	NRS411.480 87	NP corp, assoc, org formed under laws of state	Board	Xintent, fraud or knowing violation of law
OH	ORC2305.38 86	Non-hospital, charitable NP corporation under ORC1702	Bd; volunteer	Xprior knowledge and approval, or ratification Xwillful, wanton, or intentional
OK	Title 18, §865 86	501(c)	Board	Not responsible for acts of employees or other

				directors Xown negligence or intent
	Title 18, §867 87	501(c)	Board	Xbreach of duty to Corp; Xbad faith, intent; Ximproper personal benefit
OR	ORS Ch 61 §218 88	NP corp, unincorp assn or NP coop corp, advocacy organization, commission of the state or political subdivision	'Qualified' director or officer, policy-setting board member	Xgross negligence Xintentional acts
PA	Title 42 §8332.1 86	NP assoc	Sports volunteer	Xbelow generally practiced standards; Xtransportation; Xrelate to care of playing area
	Title 42, §8332.2 86	501(c)(3)	Board	Xbelow generally practiced standards
SC	Act 192, A1 Ch 31 title 33, §33-31-180	501 (c)(3,6,12) NP Coops, corps, assns organizations	Board	Xwilful, wanton or gross negligence
SD	§23A-28-11 86	Any recipient of community service defendants	Organizations	Xgross negligence, wilful, wanton; and only to extent of insurance
	§47-22-65 86	NP corp	Board	None, can indemnify
	Ch 47-23 87	501(c); hosp	Board	Xwilful, wanton
	HB1317 87	501(a), 501(c), hospital, govt entity	Board, service vol, Commission	Act in good faith & within scope, Xwilful, wanton, Xmotor vehicle, Xto extent of insurance (Xfor Board)
TN	28-3-301 86	501(c)(3), (c)(6), electric cooperatives	Board	Xwilful,wanton, gross
	29-20-201 86	Govt boards, commissions	Board	Xwilful, wanton, gross
TX	Title 4 Ch 84 §84.001 87	501(c)(3,4), except health-care provider	Board; volunteer	Act in good faith & within scope of duties; Xmotor vehicle (to extent of insurance)

				Xintent, willful, wanton XBd member liability to organization and its members
UT	Ch30 §63-30-1 87	State & local govt	Adv board, vol	Included with State Tort Claims Act
VA	§13.2-870.1 87	Corp	Board	Liable only to amount of compensation; Xwill- ful, knowing violation
VT	S37 87	501(c)(3)	Board	Good faith, Xwillful, wanton
WA	RCW4.24 sec 86	NP corp	Board	Xgross negligence, Xto corporation
	RCW7.70 86	Public or private hospital	Board	Not responsible for care by health care provider Xgross negligence in granting privilege
WI	Act 13 of 87	NP corp; credit union; fraternal benefit insurance	Board; vols	Bd: Xconflict of interest; criminal viola- tion; Xreason to believe conduct unlawful; Wilful misconduct. Vol: criminal violation Xreason to believe conduct unlawful; Xvehicle related; Xprofessional services
WY	WS1-23-107 86	NP corp; government	Board, commission	Xintentional tort or illegal acts
	WS35-9-701	Fire services	Vol	Xgross, willful, wanton

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VMSystems

Stephen H. McCurley
Partner

August 8, 1989

David Slayton
Dept of Public Welfare
Room 103
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901 N. 7th
Harrisburg, PA 17120

Dear David:

Enclosed find the listing of state volunteer protection legislation which you requested.

I think you will be able to follow most of the coding that is used without trouble, but give me a call if you have any questions.

As I said, this list of only undated periodically, so it is quite likely that there are things which are not totally current, both in terms of additional states and amendments to the enacted legislation, so be sure to double-check in case you are relying on this for anything significant.

Take care.

Sincerely,

Steve

Stephen H. McCurley