

## LEGISLATIVE HISTORY

of

R.S. 2A:53A-7 (Non-profit corporation - Liability for Negligence)

Laws 1959, Chapter 90, sec. 1 - Senate 181

This bill had no statement. Introduced April 6th by Sen. Farley and Lynch.

April 13th - Original bill passed in Senate (copy enclosed)

May 18th - Committee Substitute passed in Assembly. The Committee Substitute added a new section 2, (became 2A:53A-8) making hospitals liable. It also eliminated the previous section 5 which read: "Chapter 131 of the laws of 1958 is repealed."

May 21st - Assembly Committee Substitute passed in Senate.

The groundwork for the 1959 law was apparently laid by the passage of the 1958 law. The text of section 1 is the same in both laws. The 1958 law was deemed as a temporary expedient (see enclosed clippings) and expired June 30, 1959.

The history of the 1958 law is as follows:

Laws 1958, Chapter 131, Senate 204 - (R. S. 16:1-48, expired July 30, 1959)

No statement on this bill. Introduced May 5th by Senator Farley (copy of original bill enclosed).

May 19th - Passed Senate

June 16th - Assembly Committee Substitute passed both houses under emergency resolution (copy enclosed). (As in 1959, a new section making hospitals liable to \$10,000 was added.)

July 17th - Public hearing held. We are enclosing a copy of this hearing:

N. J. Assembly. Judiciary Committee.

First public hearing on Assembly Committee Substitute for Senate 204 - re exemption of religious, charitable and hospital organizations from negligence liability. (Kindly return this to the library after it has served your purpose.)

Although this is called the "first" hearing, and the committee adjourns to meet again, no further hearings were held. It is also interesting to note that this hearing was held one month after the bill in question had passed both houses, but a few days before the Governor signed it. Apparently the Committee had in mind a hearing on this law as permanent legislation.

*governor's statement on signing (copy enclosed)*

See Also: (copies enclosed)

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RS/jmg  
encl.

Charitable immunity doctrine repudiated. 81 NJLJ 229, May 8, 1958

Justice before charity. (Editorial) 81 NJLJ 232, May 8, 1958

Brenner, Alfred  
Letter to editor. 81 NJLJ 284, May 29, 1958

The Senate acts. (Editorial) 81 NJLJ 296, June 5, 1958

Chandless, H.H.  
Letter to editor. 81 NJLJ 296, June 5, 1958.

Charitable immunity law in New Jersey -- past, present and future. 81 NJLJ 574, Nov. 13, 1958

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CHAPTER 90 LAWS OF N. J. 19 59

APPROVED 6-11-59  
ASSEMBLY COMMITTEE SUBSTITUTE FOR

**SENATE, No. 181**

# STATE OF NEW JERSEY

ADOPTED MAY 11, 1959

AN ACT concerning corporations, societies and associations organized exclusively for religious, charitable or hospital purposes; providing that they shall not be liable to respond in damages, in certain cases; and providing for the application and operation of the act.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*  
2 *Jersey:*

1 1. No nonprofit corporation, society or association organized exclusively  
2 for religious, charitable, educational or hospital purposes shall, except as is  
3 hereinafter set forth, be liable to respond in damages to any person who shall  
4 suffer damage from the negligence of any agent or servant of such corpora-  
5 tion, society or association, where such person is a beneficiary, to whatever  
6 degree, of the works of such nonprofit corporation, society or association;  
7 provided, however, that such immunity from liability shall not extend to any  
8 person who shall suffer damage from the negligence of such corporation,  
9 society, or association or of its agents or servants where such person is one  
10 unconcerned in and unrelated to and outside of the benefactions of such cor-  
11 poration, society or association; but nothing herein contained shall be deemed  
12 to exempt the said agent or servant individually from their liability for any  
13 such negligence.

1 2. Notwithstanding the provisions of the foregoing paragraph, any non-  
2 profit corporation, society or association organized exclusively for hospital

3 purposes shall be liable to respond in damages to such beneficiary who shall  
 4 suffer damage from the negligence of such corporation, society or association  
 5 or of its agents or servants to an amount not exceeding \$10,000.00, together  
 6 with interest and costs of suit, as the result of any 1 accident and to the ex-  
 7 tent to which such damage, together with interest and costs of suit, shall  
 8 exceed the sum of \$10,000.00 such nonprofit corporation, society or associa-  
 9 tion organized exclusively for hospital purposes shall not be liable therefor.

1 3. For the purposes of this act but not in limitation thereof, the buildings  
 2 and places actually used for colleges, schools, academies, seminaries, histor-  
 3 ical societies, public libraries, religious worship, charitable or hospital pur-  
 4 poses, the moral and mental improvement of men, women and children,  
 5 nursing homes, rest homes, parish houses, auditoriums, houses of and for  
 6 prayer and buildings and places, however named or designated, operated and  
 7 maintained for equivalent uses, when so operated and maintained by any  
 8 such nonprofit corporation, society or association, shall be deemed to be op-  
 9 erated and maintained for a religious, charitable, educational or hospital pur-  
 10 pose.

1 4. This act shall be deemed to be remedial and shall be liberally con-  
 2 strued so as to afford immunity to the said corporations, societies and asso-  
 3 ciations from liability as provided herein in furtherance of the public policy  
 4 for the protection of nonprofit corporations, societies and associations or-  
 5 ganized for religious, charitable, educational or hospital purposes.

1 5. The provisions of this act shall be deemed to be severable and if any  
 2 phrase, clause, sentence or provision of this act is declared to be unconstitu-  
 3 tional or the applicability thereof to any person is held invalid the remainder  
 4 of this act shall not thereby be deemed to be unconstitutional or invalid.

1 6. This act shall take effect immediately.

SENATE, No. 181

STATE OF NEW JERSEY

INTRODUCED APRIL 6, 1959

By Senators FARLEY and LYNCH

(Without Reference)

AN ACT concerning corporations, societies and associations organized exclusively for religious, charitable, educational or hospital purposes; providing that they shall not be liable to respond in damages, in certain cases; and repealing chapter 131 of the laws of 1958.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*  
2 *Jersey:*

1 1. No nonprofit corporation, society or association organized exclusively  
2 for religious, charitable, educational or hospital purposes shall be liable to  
3 respond in damages to any person who shall suffer damage from the negli-  
4 gence of any agent or servant of such corporation, society or association,  
5 where such person is a beneficiary, to whatever degree, of the works of  
6 such nonprofit corporation, society or association; provided, however, that  
7 such immunity from liability shall not extend to any person who shall suf-  
8 fer damage from the negligence of such corporation, society, or association  
9 or of its agents or servants where such person is 1 unconcerned in and un-  
10 related to and outside of the benefactions of such corporation, society or  
11 association; but nothing herein contained shall be deemed to exempt the said  
12 agent or servant individually from their liability for any such negligence.

1 2. For the purposes of this act but not in limitation thereof, the build-  
2 ings and places actually used for colleges, schools, academies, seminaries,  
3 historical societies, public libraries, religious worship, charitable or hospital

4 purposes, the moral and mental improvement of men, women and children,  
5 nursing homes, rest homes, parish houses, auditoriums, houses of and for  
6 prayer and buildings and places, however named or designated, operated  
7 and maintained for equivalent uses, when so operated and maintained by  
8 any such nonprofit corporation, society or association, shall be deemed to be  
9 operated and maintained for a religious, charitable, educational or hospital  
10 purpose.

1 3. This act shall be deemed to be remedial and shall be liberally con-  
2 strued so as to afford immunity to the said corporations, societies and as-  
3 sociations from liability as provided herein in furtherance of the public  
4 policy for the protection of nonprofit corporations, societies and associa-  
5 tions organized for religious, charitable, educational or hospital purposes.

1 4. The provisions of this act shall be deemed to be severable and if any  
2 phrase, clause, sentence or provision of this act is declared to be unconstitu-  
3 tional or the applicability thereof to any person is held invalid the remain-  
4 der of this act shall not thereby be deemed to be unconstitutional or invalid.

1 5. Chapter 131 of the laws of 1958 is repealed.

1 6. This act shall take effect immediately.

CHAPTER 131 LAWS OF N. J. 1958

APPROVED 7-22-58  
ASSEMBLY COMMITTEE SUBSTITUTE FOR

SENATE, No. 204

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# STATE OF NEW JERSEY

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ADOPTED JUNE 16, 1958

AN ACT concerning corporations, societies and associations organized exclusively for religious, charitable or hospital purposes; providing that they shall not be liable to respond in damages, in certain cases; and providing for the application and operation of the act and for its retroactive operation to January 1, 1956.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*  
2 *Jersey:*

1 1. No nonprofit corporation, society or association organized exclusively  
2 for religious, charitable, educational or hospital purposes shall, except as is  
3 hereinafter set forth, be liable to respond in damages to any person who shall  
4 suffer damage from the negligence of any agent or servant of such corpora-  
5 tion, society or association, where such person is a beneficiary, to whatever  
6 degree, of the works of such nonprofit corporation, society or association;  
7 provided, however, that such immunity from liability shall not extend to any  
8 person who shall suffer damage from the negligence of such corporation,  
9 society, or association or of its agents or servants where such person is one  
10 unconcerned in and unrelated to and outside of the benefactions of such cor-  
11 poration, society or association; but nothing herein contained shall be deemed  
12 to exempt the said agent or servant individually from their liability for any  
13 such negligence.

1       2. Notwithstanding the provisions of the foregoing paragraph, any non-  
2 profit corporation, society or association organized exclusively for hospital  
3 purposes shall be liable to respond in damages to such beneficiary who shall  
4 suffer damage from the negligence of such corporation, society or association  
5 or of its agents or servants to an amount not exceeding \$10,000.00, together  
6 with interest and costs of suit, as the result of any 1 accident and to the ex-  
7 tent to which such damage, together with interest and costs of suit, shall  
8 exceed the sum of \$10,000.00 such nonprofit corporation, society or associa-  
9 tion organized exclusively for hospital purposes shall not be liable therefor.

1       3. For the purposes of this act but not in limitation thereof, the buildings  
2 and places actually used for colleges, schools, academies, seminaries, histor-  
3 ical societies, public libraries, religious worship, charitable or hospital pur-  
4 poses, the moral and mental improvement of men, women and children,  
5 nursing homes, rest homes, parish houses, auditoriums, houses of and for  
6 prayer and buildings and places, however named or designated, operated and  
7 maintained for equivalent uses, when so operated and maintained by any  
8 such nonprofit corporation, society or association, shall be deemed to be op-  
9 erated and maintained for a religious, charitable, educational or hospital pur-  
10 pose.

1       4. This act shall be deemed to be remedial and shall be liberally con-  
2 strued so as to afford immunity to the said corporations, societies and asso-  
3 ciations from liability as provided herein in furtherance of the public policy  
4 for the protection of nonprofit corporations, societies and associations or-  
5 ganized for religious, charitable, educational or hospital purposes.

1       5. The provisions of this act shall be deemed to be severable and if any  
2 phrase, clause, sentence or provision of this act is declared to be unconstitu-  
3 tional or the applicability thereof to any person is held invalid the remainder  
4 of this act shall not thereby be deemed to be unconstitutional or invalid.

1       6. This act shall take effect immediately and shall expire on June 30,  
2 1959.

SENATE, No. 204

STATE OF NEW JERSEY

INTRODUCED MAY 5, 1958

By Senator FARLEY

Referred to Committee on Judiciary

AN ACT concerning corporations, societies and associations organized exclusively for religious, charitable or hospital purposes; providing that they shall not be liable to respond in damages, in certain cases; and providing for the application and operation of the act and for its retroactive operation to January 1, 1956.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*  
2 *Jersey:*

1 1. No nonprofit corporation, society or association organized exclusively  
2 for religious, charitable or hospital purposes shall be liable to respond in  
3 damages to any person who shall suffer damage from the negligence of any  
4 agent or servant of such corporation, society or association; but nothing  
5 herein contained shall be deemed to exempt the said agent or servant in-  
6 dividually from his liability for any such negligence.

1 2. For the purposes of this act but not in limitation thereof, the buildings  
2 and places actually used for colleges, schools, academies, seminaries, his-  
3 torical societies, public libraries, religious worship, charitable or hospital  
4 purposes, the moral and mental improvement of men, women and children,  
5 nursing homes, rest homes, parish houses, auditoriums, houses of and for  
6 prayer and buildings and places, however named or designated, operated and  
7 maintained for equivalent uses, when so operated and maintained by any

8 such nonprofit corporation, society or association, shall be deemed to be  
9 operated and maintained for a religious, charitable or hospital purpose.

1 3. This act shall be operative from the effective date thereof and also  
2 operative retroactively to January 1, 1956, but such operation shall not be  
3 deemed to affect the rights of any person vested in him by a judgment  
4 heretofore rendered by a court of competent jurisdiction.

1 4. This act shall be deemed to be remedial and shall be liberally con-  
2 strued so as to afford immunity to the said corporations, societies and as-  
3 sociations from liability as provided herein in furtherance of the public  
4 policy for the protection of nonprofit corporations, societies and associa-  
5 tions organized for religious, charitable or hospital purpose and the con-  
6 servation of their trust funds.

1 5. This act shall take effect immediately.

PRESS RELEASE:  
For Release: July 22, 1958

FROM: Office of the Governor

Governor Meyner signed the following bill:

ACS for Senate No. 204 --- restores the rule of partial immunity for charitable organizations which existed prior to Supreme Court decisions announced April 28, 1958; creates liability for negligence of hospitals with a limit of \$10,000; remains in force only until June 30, 1959.

In signing the bill, the Governor pointed out that until the recent decisions New Jersey was one of 26 states which applied a rule of law that charitable organizations could not be held liable for the negligence of employees and agents when the person injured was one who received the benefit of the operation of the charity. Claims in such cases could be made against the employee or agent, but not against the hospital or other charitable organization unless the person injured had no connection with it, such as a pedestrian who was struck by an ambulance.

For some years there has been a vigorous controversy in legal and judicial circles over the question whether the rule of immunity should be continued. The rule was first pronounced in the United States in a case decided in 1876 by the Massachusetts court, then looked to as a leader in the common law field. That decision was followed in New York in 1914, and in New Jersey in 1925.

In recent years a number of states which had followed the rule have reversed their position in court decisions, including New York, California, Kansas, Idaho, Delaware, Iowa, Ohio and Washington. A number of other states, including Pennsylvania, Kentucky, Oregon, Nebraska, and Connecticut, refused to change the rule in recent decisions.

New Jersey cases had continued to follow the rule although it has been under critical attack for nearly 10 years, and the views here have been divided. In the last few cases before the recent ones, strong dissents were expressed against continuing the rule of immunity.

The Governor commented that he was not prepared to say whether the permanent rule should be to continue the immunity, or terminate it, or perhaps find some other solution. He pointed out, however, that in the recent cases the Supreme Court was divided mainly on the question of who should change the rule, as between Court and Legislature, rather than on the question whether the immunity rule should be changed. Thus, in the suit against Newark Eye and Ear Infirmary, 27 N.J. 29 (1958), the majority of the court said:

"The primary function of the law is justice and when a principle of the law no longer serves justice it should be discarded; here the law was embodied not in any controlling statute but in a judicial principle of the law of torts; it had no sound English common law antecedents and founds its way into American law through a misconception; it runs counter to widespread principles which fairly impose liability on those who wrongfully and negligently injure others; it operates harshly and disregards modern concepts of justice and fair dealing; it has been roundly and soundly condemned here and elsewhere and the time has come for its elimination by the very branch of government which brought it into our system."

On the other hand, the dissenting opinions pointed out that:

"The constitutional judicial power is essentially adjudicative, for the protection of public and private rights and interests under the law, and to that end to expound and interpret and apply the laws. The courts declare and effectuate the applicable principles of the common law not superseded by statute or the Constitution itself. The modification of common-law rules of liability comes within the legislative domain. \* \* \* Said Hamilton, 78th number of the Federalist (1 Federalist and Other Constitutional Papers 424): 'The interpretation of the laws is the proper and peculiar province of the courts'; 'if they [the judges] should be disposed to exercise will instead of judgment, the consequence would equally be the substitution of their pleasure to that of the Legislative body.'"

The Governor said:

"I do not consider that this bill is any permanent solution to the problem with which it deals. It is perfectly plain from the bill itself that the Legislature itself realizes this, because the law is temporary and will expire by its own terms on June 30, 1959.

"It should therefore be understood that I am giving my approval to this bill only as a stopgap measure, so that permanent legislative action, if any, may follow careful and due deliberation before that date arrives.

"It is both the function and the prerogative of the Legislature to change the law whenever it conscientiously feels that the principles

applied by our judiciary ought to be modified. Nevertheless, the recent decisions of the Supreme Court which discarded the rule of charitable immunities were not without long and significant prior notice of a trend in that direction. Except for one hasty and abortive effort (A-420, 1955), the Legislature was inactive during that period when it could well have embarked upon a thorough exploration of the problem, so that it might construct a wise and consistent pattern of rules to govern the reasonable expectations of all persons and of all charitable organizations.

"In order that the Legislature may deserve its prerogative in this field as one of the three branches of government, it must be prepared to shoulder its responsibilities. Inaction of prior legislatures in the recent years during which the handwriting was on the wall has thus led to a condition of confusion which could have been avoided. Even the dissenting judges put much of their argument on the expectation that the Legislature can better gather all the facts and provide a more complete answer to the problem. This expectation should not be frustrated.

"It is only because of my sincere hope that there will now be an example of the legislative process at its best, reviewing not only the specific problems involved in the recent decisions but all the related facets as well, that I am willing to see this temporary measure become law. And, I am sure, if that hope is realized it will be sincerely welcomed by our judiciary, which prefers to act in accordance with the will of the representatives of the people, and is reluctant to act when that will is silent."