

LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 2A:53A-7.2 (Blood bank volunteers-- immunity from liability)

**LAWS OF:** 1988 **CHAPTER:** 179

**BILL NO:** S1995

**SPONSOR(S):** Ewing

**Date Introduced:** February 1, 1988

**Committee:** **Assembly:** Insurance  
**Senate:** Judiciary

**Amended during passage:** No

**Date of Passage:** **Assembly:** November 21, 1988  
**Senate:** March 3, 1988

**Date of Approval:** December 27, 1988

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee statement:** **Assembly** Yes  
**Senate** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on Signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

P.L. 1988, CHAPTER 179, *approved December 27, 1988*  
1988 Senate No. 1995

1 **AN ACT** exempting volunteers of blood banks from liability for  
damages under certain conditions and supplementing chapter  
3 53A of Title 2A of the New Jersey Statutes.

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

7 1.a. Notwithstanding any other provision of law to the  
contrary, no person serving without compensation, other than  
9 reimbursement for actual expenses, as a trustee, director, officer  
or voluntary member of a nonprofit blood bank shall be liable for  
11 damages resulting from the exercise of judgment or discretion in  
connection with the duties of his office unless the actions  
13 evidence a reckless disregard for the duties imposed by the  
position.

15 b. Notwithstanding any other provision of law to the contrary,  
no person who provides volunteer service or assistance for any  
17 nonprofit blood bank shall be liable for damages as a result of his  
acts of commission or omission arising out of and in the course of  
19 his rendering the volunteer service or assistance.

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

23 Nothing in this subsection shall be deemed to grant immunity  
to any person causing damage as the result of his negligent  
25 operation of a motor vehicle.

27 2. This act shall take effect immediately.

29 **STATEMENT**

31 P.L. 1987, Chapter 87, approved on April 6, 1987, grants  
certain immunities from liability to volunteers and trustees who  
33 work without compensation for nonprofit associations organized  
for religious, charitable, educational or hospital purposes (as  
35 provided in N.J.S.A. 2A:53A-7 to 2A:53A-11).

1       **However, volunteers and trustees who work without**  
2 **compensation for nonprofit blood banks are probably not**  
3 **protected by this statute. Under a Superior Court case (Jacobs v.**  
4 **North Jersey Blood Center, 172 N.J. Super. 159 (Law Div. 1979)),**  
5 **a nonprofit blood bank was found not to have been organized for**  
6 **"charitable purposes," and therefore not covered by the**  
7 **provisions of N.J.S.A. 2A:53A-7 to 2A:53A-11. The court**  
8 **reasoned that, although the blood bank did not operate for profit,**  
9 **blood was not provided to patients "for free," but had to be paid**  
10 **for in some way, either by a fee or through a previous blood**  
11 **donation by the patient himself or a family member. The court**  
12 **defined a "charity" as an organization that gave a free gift, or**  
13 **free assistance, without the expectation of receiving anything in**  
14 **value in return. Thus, the court held, the blood bank could not fit**  
15 **into the statutory category of a charitable institution.**

16       **It is the sponsor's belief that nonprofit blood banks are**  
17 **currently finding it increasingly difficult to obtain liability**  
18 **insurance, due to the fear of AIDS-related lawsuits against the**  
19 **blood banks. The sponsor feels that this bill would remedy a new**  
20 **problem: many volunteers and trustees are choosing to leave their**  
21 **posts, rather than face personal liability for these lawsuits.**

23

**CIVIL JUSTICE**

25

**Tort Liability**

27       **Grants certain immunities from liability to blood bank volunteers**  
and **trustees.**

SENATE, No. 1995

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 1, 1988

By Senator EWING

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damages under certain conditions and supplementing chapter  
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contrary, no person serving without compensation, other than  
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connection with the duties of his office unless the actions  
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position.

15 b. Notwithstanding any other provision of law to the contrary,  
no person who provides volunteer service or assistance for any  
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## CIVIL JUSTICE

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### Tort Liability

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and trustees.

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

SENATE, No. 1995

STATE OF NEW JERSEY

DATED: SEPTEMBER 26, 1988

The Assembly Insurance Committee releases this bill with a favorable recommendation.

This bill would give immunity to persons serving without compensation as trustees, directors, officers, or voluntary members of nonprofit blood banks from liability for damages resulting from the exercise of their judgment or discretion in connection with the duties of their office, unless the actions evidence a reckless disregard for the duties imposed by the position.

The bill also exempts persons who provide volunteer service or assistance for any nonprofit blood bank for any acts of commission or omission arising out of and in the course of his rendering the volunteer service or assistance. This immunity would not apply in cases in which there was damage caused by a volunteer's willful, wanton or grossly negligent act of commission or omission.

By the provisions of P.L.1987, c.87, the Legislature granted immunity to members of boards of directors and volunteers who worked for non-profit corporations which are organized for religious, educational, and hospital purposes. This bill is occasioned by the concern that nonprofit blood banks may not be covered by that law because of a 1979 court decision (Jacobs v. North Jersey Blood Center, 172 N.J. Super 159 (Law Division, 1979), which determined that a nonprofit blood bank was not organized for "charitable purposes." The court determined that although the blood bank did not operate for profit, a charge was made for the blood itself; this, the court reasoned, precluded the blood bank from being characterized as a "charity."

This bill is intended to grant immunity specifically to boards of nonprofit blood banks and their unpaid volunteers, thus protecting them from the threat of a lawsuit.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1995

STATE OF NEW JERSEY

DATED: FEBRUARY 18, 1988

The Senate Judiciary Committee reports favorably Senate Bill No. 1995.

This bill would provide that persons serving without compensation on the boards of nonprofit blood banks would not be liable for damages resulting from the exercise of judgment or discretion in connection with that service unless their actions evidence a reckless disregard for their duties. The bill also provides that a person who performs volunteer work for nonprofit organizations would not be liable for damages resulting from that volunteer work. This immunity would not apply to acts of gross negligence or to damages resulting from the operation of a motor vehicle.

The provision of the bill are modeled on the provisions of recently enacted P.L. 1987, c. 87 which provides civil immunity to volunteers and trustees of nonprofit associations organized for religious, charitable, education or hospital purposes.