

2A:53A-7.1
LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:53A-7.1 et seq.

(Volunteers--
certain organizations--exempt
from civil liability)

LAWS OF: 1987

CHAPTER: 87

Bill No: S2705

Sponsor(s): Ewing and Van Wagner

Date Introduced: October 27, 1986

Committee: Assembly: Insurance

Senate: Judiciary

Amended during passage: No

Date of Passage: Assembly: March 9, 1987

Senate: December 4, 1986

Date of Approval: April 6, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: Yes

974.90 New Jersey. Assembly. Insurance Committee.
159 Insurance Committee.
1986b Public hearing on professional, business and non profit
organizations, held 4-14-86. Clifton, 1986.

974.90 New Jersey. Legislature. Assembly. Corrections, Health
159 and Human Services Committee.
1985b Public hearing on crisis in liability insurance..., held 12-16-85.
Trenton, 1985.

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SENATE, No. 2705
STATE OF NEW JERSEY

INTRODUCED OCTOBER 27, 1986

By Senators EWING and VAN WAGNER

Referred to Committee on Judiciary

AN ACT exempting volunteers of certain organizations from liability for damages under certain conditions and supplementing P. L. 1959, c. 90 (C. 2A:53A-7 et seq.).

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

1 1. a. Notwithstanding any other provision of law to the contrary,
2 no person serving without compensation, other than reimbursement
3 for actual expenses, as a trustee, director, officer or voluntary
4 member of any board, council or governing body of any nonprofit
5 corporation, society or association as provided in P. L. 1959, c. 90
6 (C. 2A:53A-7 to 2A:53A-11), or nonprofit federation council or
7 affiliated group composed of these organizations or a voluntary
8 association as provided by P. L. 1979, c. 172 (C. 18A:11-3) or to a
9 conference under the jurisdiction of such a voluntary association,
10 shall be liable for damages resulting from the exercise of judg-
11 ment or discretion in connection with the duties of his office unless
12 the actions evidence a reckless disregard for the duties imposed
13 by the position.

14 b. Notwithstanding any provisions of law to the contrary, no
15 person who provides volunteer service or assistance for any non-
16 profit corporation, society or association as provided in P. L.
17 1959, c. 90 (C. 2A:53A-7 to 2A:53A-11), or nonprofit federation
18 council or affiliated group composed of these organizations or a
19 voluntary association as provided by P. L. 1979, c. 172 (C.
20 18A:11-3) or to a conference under the jurisdiction of such a
21 voluntary association shall be liable in any action for damages as a

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22 result of his acts of commission or omission arising out of and in
23 the course of his rendering the volunteer service or assistance.

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

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

1 2. This act shall take effect immediately and shall apply to any
2 cause of action arising on or after that date.

SPONSORS' STATEMENT

This bill would provide that persons serving without compensation on the boards of religious, charitable and educational organizations 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.

This 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 does not apply to acts of gross negligence or to damages resulting from the operation of a motor vehicle.

In addition to nonprofit organizations, the provisions of this bill are also applicable to those serving on the board of directors or as volunteers with any voluntary association overseeing interscholastic sports programs.

TORT LIABILITY AND MALPRACTICE

Exempts volunteers of certain organizations from civil liability under certain conditions.

68 an asset of the judgment debtor but shall continue in effect for
69 benefit of the judgment creditor.

70 (2) In the event that the company furnishing an annuity con-
71 tract pursuant to the provisions of this section for the benefit of a
72 judgment creditor becomes insolvent and fails to meet the payment
73 obligations under that contract, the judgment debtor shall be
74 liable for any periodic payments to which the judgment creditor is
75 entitled.

76 i. Notwithstanding that periodic payment of future damages are
77 ordered by the court, attorney's fees are to be calculated on the
78 present value of an award pursuant to the provisions of Rule
79 1:21-7 of the Rules Governing the Courts of the State of New
80 Jersey.

81 j. As used in this section:

82 (1) "Future damages" means damages which may arise or be
83 incurred after the entry of a verdict in the action on account of
84 medical treatment, earnings, loss, care or custody, loss of bodily
85 functions, or pain and suffering.

86 (2) "Periodic payments" means payment at regular intervals to
87 the judgment creditor of money or delivery of other property.

1 2. This act shall take effect immediately and shall apply to all
2 causes of action arising on or after that date.

STATEMENT

Structured verdicts are verdicts in which the award is paid out over a period of time rather than in a lump sum. Structured verdicts are generally reviewed as a cost containment device, because they enable insurers to use investment income as partial payment of the award. Under this bill, a structured verdict could be requested by either party when the damage award to a plaintiff for future damages exceeds \$200,000.00. This bill would be inapplicable to cases where the injuries resulted from the operation of an automobile.

The bill also provides:

1. That if a structured verdict is requested both parties have thirty days to submit proposed periodic payment plans. The court would then mold a judgment from the payment plans submitted.

2. That the dollar amount of periodic payments should reflect reasonable anticipated rates of inflation.

3. That the judgment debtor is required to post bond or furnish an annuity contract sufficient to assure full payment of damages.

4. That the court in ordering periodic payments shall specify the recipient of the payment; the dollar amount of each payment;

the interval between payments; the time period of the payments; and the persons to whom money damages shall be paid in the event of the judgment creditor's death.

5. That a judgment ordering payment of future damages specify the amount attributed to pain and suffering, medical treatment, earnings loss and loss of bodily functions.

6. That a court may hold in contempt a judgment debtor who fails to make required payments and to order the debtor to pay all damages caused by such failure including court costs and attorney's fees.

7. That in the event of the death of a judgment creditor, upon motion of any party, payments for future medical treatment, loss of bodily function or pain and suffering would cease. Damages for loss of future earnings would continue to be paid to the creditor's dependents or to the creditor's estate.

8. That in the event of a substantial change in circumstances with regard to medical needs, the judgment creditor may apply for an adjustment in the payment schedule.

9. That the rights of the judgment creditor to receive periodic payments is protected in the event that either the judgment creditor or the company from whom the judgment creditor has purchased an annuity contract becomes insolvent.

TORT LIABILITY AND MALPRACTICE

Requires the imposition of structured verdicts where the amount of future damages in certain civil actions exceeds \$200,000.

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

SENATE, No. 2705

STATE OF NEW JERSEY

DATED: FEBRUARY 5, 1987

This bill would give immunity to unpaid trustees, directors, officers, or voluntary members of (1) any board, council, or governing body of any nonprofit corporation, society or association; or (2) a nonprofit federation, council or affiliated group composed of these organizations; or (3) a voluntary interscholastic sports organization or a conference within the jurisdiction of a voluntary interscholastic sports organization. Immunity would be extended to these individuals for any damages resulting from the exercise of 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 would extend immunity to individuals who provide volunteer service or assistance for any nonprofit corporation, society or association, or for a nonprofit federation, council or affiliated group composed of these organizations or a voluntary interscholastic athletic association or a conference affiliated with an interscholastic athletic association. These volunteers would not be given immunity for any act of commission or omission which is willful, wanton or grossly negligent or for negligence in connection with the operation of a motor vehicle.

Nonprofit organizations have recently experienced difficulty in attracting and keeping qualified individuals to serve as officers and on boards of directors of nonprofit and charitable associations because of the potential exposure to lawsuits which exists. Exposure to liability in these cases often means that the individual's own assets are placed in jeopardy, and many individuals have been reluctant to subject themselves to this risk. By giving immunity to trustees, officers, directors, and other uncompensated volunteers, the bill's purpose is to permit nonprofit and charitable organizations to continue to attract able people to serve in these capacities.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
SENATE, No. 2705

STATE OF NEW JERSEY

DATED: OCTOBER 30, 1986

The Senate Judiciary Committee reports favorably Senate Bill No. 2705.

This bill would provide that persons serving without compensation on the boards of religious, charitable and educational organizations 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 does not apply to acts of gross negligence or to damages resulting from the operation of a motor vehicle.

In addition to nonprofit organizations, the provisions of Senate Bill No. 2705 are also applicable to those serving on the board of directors or as volunteers with any voluntary association overseeing interscholastic sports programs.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: JOHN SAMERJAN
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TRENTON, N.J. 08625
Release: MON., APR. 6, 1987

Governor Thomas H. Kean today signed legislation exempting volunteers of certain non-profit organizations from liability for claims unless they demonstrate a reckless disregard for their duties.

S-2705, was sponsored by Senator John Ewing, R-Somerset and Assemblymen John Penn, R-Somerset and William Pat Schuber, R-Bergen.

The legislation provides that volunteers, persons serving without compensation other than reimbursement for actual expense as trustees, directors, officers, or voluntary members of any board, council or governing body of any non-profit organization, voluntary athletic association or athletic conference, shall not be liable for damages resulting from the exercise or judgment.

The bill also immunizes any person who provides volunteer service or assistance to any such organization from tort liability.

No immunity is provided to volunteers for willful or grossly negligent acts or missions.

The legislation is effective immediately.

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