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IS 12/12/07

§§1,2 -
C.2A:53A-7.4 &
2A:53A-7.5 &
Note to 2A:14-2,
2A:14-2.1 &
2A:61B-1

P.L. 2005, CHAPTER 264, *approved January 5, 2006*
Senate, No. 540 (*Second Reprint*)

1 **AN ACT** concerning the immunity of charitable organizations in certain
2 circumstances and supplementing Title 2A of the New Jersey
3 Statutes.

4

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

7

8 1. The immunity from civil liability granted to a nonprofit
9 corporation, society or association organized exclusively for religious,
10 charitable, educational or hospital purposes pursuant to the provisions
11 of P.L.1959, c.90 (C.2A:53A-7 to 2A:53A-11) shall not apply ¹to a
12 claim¹ in any civil action ¹[which alleges]¹ that the negligent hiring
13 ¹[or], ¹supervision ¹or retention¹ of any employee ¹, agent or
14 servant¹ resulted in a sexual offense being committed against a person
15 under the age of 18 who was a beneficiary of the nonprofit
16 organization. As used in this ¹[section] supplementary act, P.L. _____,
17 c. (C. _____)(now pending before the Legislature as this bill)¹, "sexual
18 offense" means ¹any actions that would constitute¹ any crime
19 ²[defined] set forth² in chapter 14 of Title 2C of the New Jersey
20 Statutes ²or set forth in paragraph (3) or (4) of subsection b. of
21 N.J.S.2C:24-4².

22

23 ¹2. The provisions of this supplementary act, P.L. _____, c. (C. _____)
24 (now pending before the Legislature as this bill), shall apply
25 prospectively and also shall be applicable to all civil actions for which
26 the statute of limitations has not expired as of the effective date of this
27 act, including the statutes of limitation set forth in N.J.S. 2A:14-2,
28 section 1 of P.L. 1964, c. 214 (C. 2A:14-2.1), section 1 of P.L. 1992,
29 c. 109 (C. 2A:61B-1) or any other statute. These applicable actions
30 include but are not limited to matters filed with a court that have not
31 yet been dismissed or finally adjudicated as of the effective date of this
32 act.¹

33

34 ¹[2.] 3.¹ This act shall take effect immediately.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted March 1, 2004.

² Assembly floor amendments adopted June 30, 2005.

- 1 _____
- 2
- 3 Modifies the Charitable Immunity Act.

SENATE, No. 540

STATE OF NEW JERSEY
211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator NIA H. GILL

District 34 (Essex and Passaic)

SYNOPSIS

Modifies the Charitable Immunity Act.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 1/27/2004)

1 AN ACT concerning the immunity of charitable organizations in certain
2 circumstances and supplementing Title 2A of the New Jersey
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The immunity from civil liability granted to a nonprofit
9 corporation, society or association organized exclusively for religious,
10 charitable, educational or hospital purposes pursuant to the provisions
11 of P.L.1959, c.90 (C.2A:53A-7 to 2A:53A-11) shall not apply in any
12 civil action which alleges that the negligent hiring or supervision of
13 any employee resulted in a sexual offense being committed against a
14 person under the age of 18 who was a beneficiary of the nonprofit
15 organization. As used in this section, "sexual offense" means any
16 crime defined in chapter 14 of Title 2C of the New Jersey Statutes.

17
18 2. This act shall take effect immediately.

19
20
21

STATEMENT

22
23 Under the provisions of the Charitable Immunity Act
24 (N.J.S.2A:53A:-7 to 2A:53A-11), nonprofit organizations organized
25 for charitable purposes are generally immune from liability in civil
26 cases. In Schultz v. Roman Catholic Archdiocese of Newark, 95 N.J.
27 530 (1984), the New Jersey Supreme Court held that this statutory
28 grant of charitable immunity was applicable in cases involving
29 allegations that the charitable organization's negligent hiring and
30 supervision of an employee resulted in the sexual assault of a child.
31 This bill would provide that the Charitable Immunity Act would not
32 apply in cases involving the negligent hiring and supervision of an
33 employee when such negligence caused the sexual molestation of a
34 person under 18 years of age who was a beneficiary of the charitable
35 organization.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 540

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2004

The Assembly Financial Institutions and Insurance Committee reports favorably Senate Bill No. 540 (1R).

Under the provisions of the Charitable Immunity Act (N.J.S.2A:53A-7 to 2A:53A-11), nonprofit organizations organized for charitable purposes are generally immune from liability in civil cases. In Schultz v. Roman Catholic Archdiocese of Newark, 95 N.J. 530 (1984), the New Jersey Supreme Court held that this statutory grant of charitable immunity applies in cases involving allegations that the charitable organization's negligent hiring and supervision of an employee resulted in the sexual assault of a child.

This bill makes an exception to the statutory law in providing that the Charitable Immunity Act does not apply in cases involving the negligent hiring, supervision or retention of any employee, agent or servant when such negligence caused the sexual molestation of a person under 18 years of age who was a beneficiary of the charitable organization. This bill also provides that a person need not have been charged with a crime for the bill's provisions to be applicable.

The bill applies not only prospectively but also retroactively to actions for which the statute of limitations has not expired as of the effective date of this bill. These applicable actions include but are not limited to matters filed with a court that have not yet been dismissed or finally adjudicated as of the effective date of this bill.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 540

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 1, 2004

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 540.

Under the provisions of the Charitable Immunity Act (N.J.S.2A:53A:-7 to 2A:53A-11), nonprofit organizations organized for charitable purposes are generally immune from liability in civil cases. In Schultz v. Roman Catholic Archdiocese of Newark, 95 N.J. 530 (1984), the New Jersey Supreme Court held that this statutory grant of charitable immunity was applicable in cases involving allegations that the charitable organization's negligent hiring and supervision of an employee resulted in the sexual assault of a child. This bill would provide that the Charitable Immunity Act would not apply in cases involving the negligent hiring and supervision of an employee when such negligence caused the sexual molestation of a person under 18 years of age who was a beneficiary of the charitable organization.

The committee amendments make certain changes in section 1 of the bill. The amendments include "retention " of an employee in addition to hiring or supervision of an employee. "Agents" or "servants" would be included with employees. Language was inserted in the definition of "sexual offense" to make it clear that a person need not have been charged with or convicted of a crime for the bill's provisions to be applicable.

In addition the committee amendments add a new section 2 to the bill to clarify that the provisions of this bill are not only prospective but also applicable retroactively to actions for which the statute of limitations has not expired as of the effective date of this bill. These applicable actions include but are not limited to matters filed with a court that have not yet been dismissed or finally adjudicated as of the effective date. It is the intent of the committee to permit persons with causes of action that are not time-barred to proceed to file these actions.

This bill was prefiled for introduction in the 2004 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

STATEMENT TO

[First Reprint]

SENATE, No. 540

with Assembly Floor Amendments
(Proposed By Assemblyman DIEGNAN)

ADOPTED: JUNE 30, 2005

These floor amendments add violations of paragraph (3) or (4) of subsection b. of N.J.S.2C:24-4, concerning endangering the welfare of a child, to the provisions of the bill. Currently the definition of "sexual offense" in the bill refers to crimes set forth in chapter 14 of Title 2C. These floor amendments provide that "sexual offense" may also include a crime set forth in paragraph (3) or (4) of subsection b. of N.J.S.2C:24-4 (causing or permitting a child to engage in a prohibited sexual act knowing or intending that the act may be photographed, filmed, reproduced or reconstructed, or photographing or filming a child in such an act).

The floor amendments also clarify language concerning "any crime defined in" chapter 14 of Title 2C. As amended, this language would refer to "any crime set forth in" those provisions of law.

The bill eliminates the immunity of charitable organizations in certain circumstances for which the statute of limitations for civil actions has not expired as of the effective date of the bill. The provisions of this bill are not only prospective but also applicable retroactively to actions for which the statute of limitations has not expired as of the effective date of this bill.

These actions include:

(1) N.J.S.A.2A:14-2 (provides that a civil action for an injury caused by the wrongful act, neglect or default of any person in the State shall be commenced within two years next after the cause of any such action shall have accrued);

(2) N.J.S.A.2A:14-2.1 (provides that where a parent or other person has a claim for damages because of an injury to a minor child caused by the wrongful act, neglect or default of any person within this State, a civil action may be commenced by the parent or other person within the same period of time as provided by N.J.S.A.2A:14-2); and

(3) N.J.S.A.2A:61B-1 (provides that in a civil action for sexual abuse, which is defined as an act of sexual contact or sexual penetration between a child under the age of 18 years and an adult, the cause of action shall accrue at the time of reasonable discovery of the injury and its causal relationship to the act of sexual abuse, and any such action shall be brought within two years after reasonable discovery).

These applicable actions include, but are not limited to, matters filed with a court that have not yet been dismissed or finally adjudicated as of the effective date.

ASSEMBLY, No. 2512

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MARCH 11, 2004

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman ANTHONY CHIAPPONE

District 31 (Hudson)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman PATRICK DIEGNAN, JR.

District 18 (Middlesex)

Co-Sponsored by:

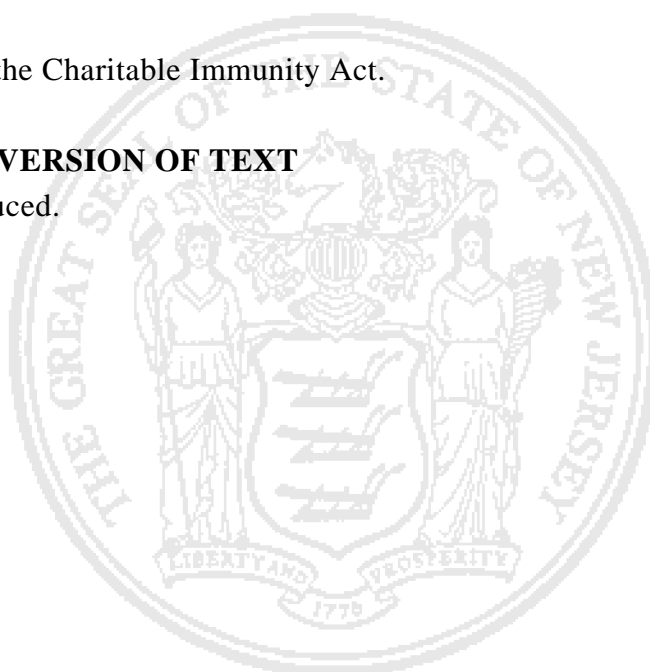
Assemblywoman Voss and Assemblyman Payne

SYNOPSIS

Modifies the Charitable Immunity Act.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2005)

1 AN ACT concerning the immunity of charitable organizations in certain
2 circumstances and supplementing Title 2A of the New Jersey
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The immunity from civil liability granted to a nonprofit
9 corporation, society or association organized exclusively for religious,
10 charitable, educational or hospital purposes pursuant to the provisions
11 of P.L.1959, c.90 (C.2A:53A-7 to 2A:53A-11) shall not apply to a
12 claim in any civil action that the negligent hiring, supervision or
13 retention of any employee, agent or servant resulted in a sexual offense
14 being committed against a person under the age of 18 who was a
15 beneficiary of the nonprofit organization. As used in this
16 supplementary act, P.L. ,c. (C.)(now pending before the
17 Legislature as this bill) , "sexual offense" means any actions that would
18 constitute any crime defined in chapter 14 of Title 2C of the New
19 Jersey Statutes.

20
21 2. The provisions of this supplementary act, P.L. ,c. (C.)
22 (now pending before the Legislature as this bill), shall apply
23 prospectively and also shall be applicable to all civil actions for which
24 the statute of limitations has not expired as of the effective date of this
25 act, including the statutes of limitation set forth in N.J.S.2A:14-2,
26 section 1 of P.L.1964, c.214 (C.2A:14-2.1), section 1 of P.L.1992,
27 c.109 (C.2A:61B-1) or any other statute. These applicable actions
28 include but are not limited to matters filed with a court that have not
29 yet been dismissed or finally adjudicated as of the effective date of this
30 act.

31
32 3. This act shall take effect immediately.

33

34

35

STATEMENT

36

37 Under the provisions of the Charitable Immunity Act
38 (N.J.S.2A:53A:-7 to 2A:53A-11), nonprofit organizations organized
39 for charitable purposes are generally immune from liability in civil
40 cases. In Schultz v. Roman Catholic Archdiocese of Newark, 95
41 N.J.530 (1984), the New Jersey Supreme Court held that this statutory
42 grant of charitable immunity was applicable in cases involving
43 allegations that the charitable organization's negligent hiring and
44 supervision of an employee resulted in the sexual assault of a child.
45 This bill would provide that the Charitable Immunity Act would not

1 apply in cases involving the negligent hiring, supervision or retention
2 of any employee, agent or servant when such negligence caused the
3 sexual molestation of a person under 18 years of age who was a
4 beneficiary of the charitable organization. This bill would also provide
5 that a person need not have been charged with a crime for the bill's
6 provision to be applicable.

7 Section 2 of the bill clarifies that the provisions of the bill are not
8 only prospective but also shall be applicable retroactively to actions
9 for which the statute of limitations has not expired as of the effective
10 date of this bill. These applicable actions include but are not limited
11 to matters filed with a court that have not yet been dismissed or finally
12 adjudicated as of the effective date of this bill.

13 It is the sponsor's intent to permit persons with causes of action
14 that are not time-barred to proceed to file these actions.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2512

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2004

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 2512.

Under the provisions of the Charitable Immunity Act (N.J.S.2A:53A-7 to 2A:53A-11), nonprofit organizations organized for charitable purposes are generally immune from liability in civil cases. In Schultz v. Roman Catholic Archdiocese of Newark, 95 N.J. 530 (1984), the New Jersey Supreme Court held that this statutory grant of charitable immunity applies in cases involving allegations that the charitable organization's negligent hiring and supervision of an employee resulted in the sexual assault of a child.

This bill makes an exception to the statutory law in providing that the Charitable Immunity Act does not apply in cases involving the negligent hiring, supervision or retention of any employee, agent or servant when such negligence caused the sexual molestation of a person under 18 years of age who was a beneficiary of the charitable organization. This bill also provides that a person need not have been charged with a crime for the bill's provisions to be applicable.

The bill applies not only prospectively but also retroactively to actions for which the statute of limitations has not expired as of the effective date of this bill. These applicable actions include but are not limited to matters filed with a court that have not yet been dismissed or finally adjudicated as of the effective date of this bill.