State Liability Laws for Charitable Organizations and Volunteers

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About This Publication

This publication has evolved over more than a decade. The initial research was conducted in the late 1980s with the first printed version available in 1990. We are pleased to present this fourth edition as a free, online publication.

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Invitation to Readers

Any attempt to summarize statutory and common law runs the risk of becoming out-of-date over time. This publication is based on a careful review of legislation and databases that report judicial outcomes. If any readers identify an area where the information presented is incomplete, inaccurate or misleading, we urge you to contact us so that we may update our records and this publication. To provide an update or information with respect to any statute or relevant case, please call (202) 785-3891 or send relevant information to: info@nonprofitrisk.org.

Liability Protection for Volunteers and Charitable Organizations: An Overview

Good Samaritan Laws. Volunteer Protection. Volunteer Immunity. Liability Limitation. Shield Laws. Charitable Immunity. These terms, which have significant, as well as subtle distinctions, have been used to describe laws that protect people and organizations in the nonprofit sector from claims, lawsuits and allegations of wrongdoing. Although numerous researchers, legal authorities and other interested persons have written about these subjects during the past 20 years, a tremendous degree of confusion remains about whether volunteers and nonprofits can be sued and held liable for negligent acts. More specifically, managers and leaders of nonprofit organizations continue to wonder:

- Can we be sued?
- Can we be held liable?
- Are there laws that limit our liability *because* we are nonprofits or volunteers?

Each year the Nonprofit Risk Management Center receives countless calls from nonprofit managers describing actual or hypothetical situations in which the nonprofit is or could be embroiled. A typical caller inquires "Could we be sued?" or "If we were sued, would we be liable?" To respond, we explain that, with rare exception, a nonprofit can be sued by anyone…at anytime…for anything.

We continue by explaining that determining whether a nonprofit will be liable for harm resulting from its acts or omissions depends on the confluence of various factors, including whether:

- the nonprofit had a duty of care with respect to those who were harmed,
- the nonprofit breached its duty of care,
- harm actually occurred,
- the harm that occurred was foreseeable,
- the breach of the duty of care was a proximate cause of the harm that occurred, and
- there were reasonable measures available to the nonprofit that would have prevented the harm from occurring.

We then advise that all of these considerations will be factored with the laws of a particular jurisdiction and the perspective and biases of the judge or jury who will consider the facts in a particular case. In so many instances, it is difficult, if not impossible, to predict whether liability will be imposed. Legal counsel representing the nonprofit, with full knowledge of all of the circumstances and facts at hand will try to make this prediction and advise the nonprofit accordingly.

Has Fear of Liability Thinned the Ranks of the Volunteer Workforce?

Among the "trends" cited by supporters of the Volunteer Protection Act (VPA) was that prospective volunteers had become increasingly fearful of being sued. The federal law enacted in 1997 sought to establish an even playing field for volunteer protection. Those who

testified in support of the legislation argued that concern and uncertainty about whether a volunteer's charitable efforts could lead to the imposition of personal liability was a significant deterrent to volunteering. More simply stated, "Could I lose my house if someone gets hurt while I'm pitching in at the homeless shelter one weekend?"

The concern about the drain on volunteerism was repeatedly cited throughout the 1990s up until passage of the VPA in 1997. Until then, the federal legislation was introduced annually by its proponents and sent to the appropriate legislative committee to perish without formal action or much notice.

The statistics on volunteerism collected by the national umbrella organization Independent Sector counter the notion that fear of liability has dissuaded large groups of people from volunteering. According to Independent Sector, between 1980 and 1995, the number of volunteers in the United States grew from 80 million to 93 million, an increase of 16 percent, and a record 90 percent of individuals volunteered when asked.

Although we are somewhat doubtful about the claims that large numbers of persons have declined to volunteer due to fear about personal liability, we acknowledge that these fears have persisted during the past two decades. Over the past few years, the Nonprofit Risk Management Center has received dozens of calls from volunteers expressing concern about the potential for personal liability. Despite this fear, we have yet to hear from someone whose fear of liability has led to the decision to cease participating as a volunteer in any form. We occasionally hear from individuals who have decided to leave an organization because of concern about the practices of a specific nonprofit. The volunteer's concern may focus on poor record keeping, dispassionate employment practices, troubling conflicts of interest in the organization's relationships with vendors, or other issues.

In our experience, volunteers who are concerned about liability may be inspired by this fear to take closer look at the discipline of risk management, and the opportunity to integrate proactive measures into the various facets of an organization, from fund-raising functions to client services. "What can I do to make my organization safe?" is the question many volunteers pose after expressing concern about the need to protect an organization's precious assets, from young clients to its reputation in a community.

Principal Findings

As was true in 1996 when we last published this work, every state in the United States has a law that pertains specifically to the legal liability of some volunteers. As in the past, these laws differ to a great extent. Some state volunteer protection laws only protect directors and officers serving nonprofits; others protect narrow categories of volunteers, such as firefighters or other emergency service personnel. Many of the protections for directors and officers were enacted by legislators in response to the insurance crisis (hard market cycle) affecting nonprofits in the mid-'80s. As a result, some laws afford greater protection for volunteers who establish policy in an organization than for those who carry it out.

When the Volunteer Protection Act was adopted in 1997, interested observers offered a number of predictions. One was that state legislatures would rush to make changes to their laws to provide greater protection than the federal law. The VPA establishes a minimum level of protection that pre-empts state law except to the extent that state laws provide greater protection:

> *42 U.S.C.S. § 14502, State preemption*
> (The VPA) pre-empts any inconsistent law of a state, except if the state law provides more liability protection for volunteers than (the VPA) provides.
>
> (The VPA) does not apply in a state that has enacted a statute citing the authority of this statute section and declaring the will of the state that this Act won't apply in the state.

Throughout this publication, we summarize the most recent versions of the state volunteer protection laws. In several cases state legislatures have recently added additional wording to their volunteer protection laws that clarifies or expands the protection previously afforded or represents an attempt to adjust the law so it is consistent with the federal VPA. There continue to be a wide range of exceptions to the protections afforded under these laws, as well as other differences reflecting the preferences or specific concerns of the state legislatures.

Exceptions to Liability Protection: Common and Unusual

It is arguable that the exceptions to the protections provided by the state statutes serve to eliminate protection for volunteers in a great number — perhaps even the majority — of the claims filed against nonprofit volunteers. The most common exceptions in the various state statutes include:

- the exception eliminating the protection for volunteer conduct found to be willful or wanton.
- the exception for gross negligence on the part of the volunteer.
- the exception for wrongful acts committed while operating a motor vehicle.

The last exception noted above accounts for a large number of claims filed against volunteers. On a practical level, the first two exceptions serve to remove the possibility that a suit against a volunteer will be dismissed on summary judgement. Some observers have commented that the first two exceptions noted above simply guide plaintiffs to style their suits in a way that will necessitate a full review of the facts before a judge or jury.

Additional, yet less common exceptions featured in the state laws include:
- the exception for fraud or fiduciary misconduct;
- the exception for actions brought by an attorney general or other state official;
- the exception for the delivery of certain professional services; and
- the exception for knowing violation of the law.

Conditions May be Required

In addition to specified exceptions, there are recurring requirements for the limitation on liability to apply. Examples of the conditions that attach to various volunteer protection laws include the requirement that:

- The nonprofit retaining the volunteer carry liability insurance at a specified level.
- The nonprofit amend its articles of incorporation or bylaws to specifically indemnify volunteers.
- Certain volunteers receive training from the nonprofit.
- Volunteers receive prior written authorization in order to act.

The conditions are consistent with the federal law's intent: to ensure that the nonprofit, not the volunteer serving the nonprofit, is financially responsible for negligent acts or omissions committed by an uncompensated volunteer. However, there is great irony in these conditions. For example, the insurance requirement often means that volunteers serving the smallest nonprofits – those with only meager resources – often don't enjoy any protection under the state volunteer protection law, while those volunteering for larger organizations, which can afford liability insurance, will enjoy protection.

The three other conditions lead to a similar outcome: volunteers who are serving smaller, more informal organizations are at greatest risk, because the lack of sophistication and resources of the nonprofits they serve removes the protection the volunteers would otherwise enjoy under the state volunteer protection law.

Unusual Provisions May be Included

There are also a number of unusual provisions that appear in only a handful of states. For example:

- Six states have amended their laws in recent years to protect Good Samaritans who use an *automatic external defibrillator*, or AED, in an attempt to recussitate an unresponsive victim (*see* Illinois, Kentucky, Nevada, Pennsylvania, Rhode Island, Tennessee, Vermont, and Virginia).

- Eight states have code sections that specifically protect athletic volunteers (*see* Louisiana, Massachusetts, Minnesota, New Mexico, Ohio, North Dakota, Pennsylvania, and Rhode Island). Other state codes contain provisions limiting the liability of volunteer medical personnel serving at athletic events.

- Two states have adopted statutes that specifically protect volunteers engaged in alternative dispute resolution (ADR) programs (*see* Texas and Washington).

In addition, the following unusual provisions are noted in a state-by-state review of the various volunteer protection and Good Samaritan laws:

- In Arkansas, volunteers lose the shelter of the volunteer protection statute if they are covered by liability insurance. Where this is the case, the volunteer's liability for simple negligence is limited to the liability limit of the applicable insurance policy.
- In Colorado, a section of the code immunizes, "All bingo-raffle volunteers...from civil actions and liabilities if they acted in good faith and within the scope of their official duty for a charitable organization."
- In Connecticut, the state's Good Samaritan law (which provides immunity against claims of ordinary negligence) applies only to individuals licensed to practice medicine or surgery when they voluntarily render medical aid to persons in need.
- The Delaware volunteer protection law specifically defines "organization" as any "not-for-profit organization exempt from federal income tax under § 501(c) of the Internal Revenue Code." Several other state laws limit protection to nonprofits that have obtained federal tax-exempt status.
- The Hawaii volunteer protection act shields volunteers serving nonprofits that carry liability insurance with an aggregate limit of $500,000 or that have annual revenues of less than $50,000. Ironically, this statute leaves unprotected a potentially large group of volunteers – persons volunteering for nonprofits with budgets larger than $50,000, but that still can't afford liability coverage.
- In addition to other categories of Samaritans, Nevada's Good Samaritan law protects both individuals (properly certified persons rendering CPR or using defibrillators, persons giving emergency care on a school playground or through public school activities, persons who provide training in the use of defibrillators), and organizations (places of businesses that keep defibrillators on the premises). Under the Nevada law these persons and organizations are not liable for civil damages as a result of an act or omission that does not amount to gross negligence in rendering emergency care.
- Ohio's volunteer protection law pertaining to athletic volunteers only applies if at the time of the act or omission the athletic coach or trainer had completed a requisite safety course.
- In South Dakota a separate statute provides that to the extent any volunteer, non-profit corporation or organization, governmental entity or charitable hospital participates in a risk sharing pool or purchases liability insurance, the immunity provided by the state's volunteer protection law (§ 47-23-29) is waived and cannot be raised as an affirmative defense in court.
- In the section of the Texas code protecting food donation volunteers, the state law further provides that "a person allowing their fields to be used by volunteers to get food for the needy is not subject to civil or criminal liability that arises from injury to a volunteer."
- In Vermont, *201 V.S. § 5781,* provides that "A volunteer for a library will not be held personally liable for damages resulting from services provided to patrons in the course of duty or for information contained in library materials." Vermont's code also protects volunteers who administer rabies inoculations.
- Virginia's code contains numerous unusual provisions, including a provision protecting, "Any person who provides emergency obstetrical care to a woman in active labor who had not previously cared for her in connection with the pregnancy and did not have the woman's medical records readily available." Another section of the code protects "Any person who in good faith and without compensation administers epinephrine to a person

for whom an insect sting treatment kit was prescribed, if it is reasonably believed the person is about to suffer an anaphylactic reaction."

- In Wisconsin, a volunteer who provides services without compensation on behalf of the Roman Catholic Church is not liable to any person for any monetary liabilities arising from an act or omission as a volunteer. A separate provision indicates that a volunteer for a religious organization who provides services without compensation is not liable to any person for any monetary liabilities arising from an act or omission as a volunteer.

Charitable Immunity and Limits on Organization Liability

One of the most common misinterpretations of or assumptions about the state and volunteer protection laws is that these laws immunize *nonprofits* as well as volunteers. They do not. As indicated previously, the clear legislative intent in so many instances was to ensure that a nonprofit retaining a volunteer is responsible for the consequences of harm caused by a volunteer.

In order to determine whether nonprofits enjoy any protection against suits or limitation on liability, it is necessary to examine both statutes and case law concerning the availability of a charitable immunity defense. While charitable immunity has been abolished in the majority of the states, vestiges of this common law doctrine remain in various jurisdictions. The common law doctrine of charitable immunity exists – to some degree – in nine states: Alabama, Arkansas, Georgia, Maine, Maryland, New Jersey, Virginia, Utah and Wyoming. The states with the least restrictive forms of charitable immunity are Arkansas, New Jersey and Virginia. In Alabama nonprofits are immune only with respect to claims from beneficiaries. In Georgia nonprofits enjoy immunity unless the nonprofit fails to exercise ordinary care in the selection or retention of competent officers and employees, or where the plaintiff is a paying recipient of services from the nonprofit. In Maine charitable immunity only applies if an organization derives its funds mainly from public and private charity. In Maryland charitable immunity applies only if an organization's assets are held in trust and the nonprofit has no liability insurance. In New Jersey nonprofits are not liable for negligently causing injury to a beneficiary of the organization (*see* N.J. State. Ann. § 2A:53A-7). In Virginia nonprofits are immune from suits by beneficiaries alleging negligence, absent a finding of corporate negligence. However, charities are not immune for the negligence of their employees if they fail to exercise ordinary care in the selection and retention of those employees. In Utah there is a statute that limits the liability of a tax exempt nonprofit, under certain circumstances, for acts or omissions of a volunteer:

> *Utah Code Ann. § 78-19-3, Organization liability*
> A non-profit organization is not liable for damage or injury that was caused by an intentional or knowing act of the volunteer which constituted illegal, willful or wanton misconduct, unless the non-profit should have had reasonable notice of the volunteer's unfitness to provide services under circumstances that make the organization's use of the volunteer reckless or wanton. A non-profit organization is also not liable where under the law a business employer would not be liable for an employee.

In Wyoming a charitable immunity defense is available to nonprofits that provide services without charge (see Wyo. Stat. § 1-1-125).

The following states limit the liability of nonprofits by capping the amount that may be awarded as damages. These provisions are sometimes described as a form of charitable immunity:

- *Colorado* – In Colorado, lawsuits against nonprofits are not prohibited, but judgments are limited to the extent of existing insurance coverage (*see* Colo. Rev. Stat. Ann § 7-123-105).
- *Massachusetts* – In Massachusetts a tort cap of $20,000 applies to nonprofits for torts committed in the course of any activity carried on to accomplish directly the charitable purposes of the organization (*see* Mass. Gen. Laws Ann. ch. 231, § 85K*)*.
- *South Carolina* – Awards against charitable organizations are limited to $250,000 in actions for injury or death caused by the tort of an agent, servant, employee, or officer. S.C. Code Ann. § 33-56-180.

The following is a summary of the federal and state statutes, and selected, published case law dating from 1996 that discuss the issue of immunity for charities, volunteers, or Good Samaritans. The statutes and cases have been summarized for brevity and understanding. To fully understand the legislative or judicial intent, an interested reader should consult the statutory language or relevant court opinion and review the official wording.

The Volunteer Protection Act of 1997

In 1997, Congress — with the purpose of encouraging people to volunteer their services while seeking to ease fears of volunteer liability — passed the federal Volunteer Protection Act [42 U.S.C. § 14503(a)]. At the time the VPA was adopted, every state had a law limiting the liability of certain volunteers.

In the late 1980s several federal legislators began proposing ways to remove the liability chill from volunteering. On the national level, Rep. John Porter (R-IL) dramatized the problem by assigning bill number 911 to his proposed Volunteer Protection Act to spur state adoption of volunteer protection laws. In 1990, President George H.W. Bush released a model act and called for state-by-state adoption. In response to these forces, state legislatures began taking action.

The final version of the Volunteer Protection Act — signed into law by President Clinton on June 18, 1997 — preempts state laws "to the extent that such laws are inconsistent with the Act." However, it does not preempt a state law that provides additional protection from liability for volunteers. The state law preemption also does not apply with respect to a number of conditions that may be incorporated in state law.

These conditions include:

a. that a nonprofit adhere to risk management procedures, including mandatory training of volunteers;
b. laws that make a nonprofit liable for the acts or omissions of its volunteers to the same extent that an employer is liable for the acts or omissions of its employees;
c. provisions that render the immunity inapplicable if an officer of a state or local government brought the civil action; and
d. provisions that limit the applicability of immunity to nonprofits that provide a "financially secure source of recovery," such as insurance.

In addition, the federal law's protections don't apply to civil actions in which all parties are citizens of the state that has enacted a statute declaring that the VPA doesn't apply. In our research we did not uncover any laws making this declaration.

Simply stated, the Volunteer Protection Act provides immunity for volunteers serving nonprofit organizations or governmental entities for harm caused by their acts or omissions if:

- *the volunteer was acting within the scope of his or her responsibilities at the time of the alleged act or omission*. Unfortunately, in many cases the scope of a volunteer's responsibility isn't defined. In some cases a volunteer will take it upon him or herself to undertake service for the organization.
- *appropriate or required, the volunteer was properly licensed, certified or authorized to act*. Whether it was appropriate for a volunteer to be authorized to act will not be readily apparent in all instances.
- *the harm was not caused by willful, criminal or reckless misconduct, gross negligence or a conscious, flagrant indifference to the rights or safety of the individual harm*. This condition provides guidance to plaintiff's counsel in terms of wording a complaint so that it will avoid the protection of the VPA. A plaintiff need only state that a volunteer's action was willful or in flagrant indifference to the rights and safety of the individual harm for the matter to require a factual determination by a court. Therefore, the volunteer is unable to avoid being sued and must defend him or herself.
- *the harm was not caused by the volunteer operating a motor vehicle, vessel, or aircraft where the State requires an operator's license and insurance*.

Nevertheless, despite the VPA, many volunteers remain *fully liable* for any harm they cause, and all volunteers remain liable for some actions. The VPA only applies to nonprofit organizations and governmental entities. In addition, the VPA doesn't prevent a nonprofit from bringing an action against a volunteer.

42 U.S.C.S. § 14501, Volunteer Protection Act

The willingness of citizens to volunteer their services can be deterred by the threat of liability. Many organizations have been adversely affected by the withdrawal of volunteer services. Because of the many negative effects that result from the withdrawal of volunteer support, limiting volunteer liability is an appropriate forum for Congress.

42 U.S.C.S. § 14502, State preemption

This law preempts any inconsistent law of a state, except if the state law provides more liability protection for volunteers that this law provides.

This act does not apply in a state that has enacted a statute citing the authority of this statute section and declaring the will of the state that this Act won't apply in the state.

42 U.S.C.S. § 14503, Limitation on Liability

Protection for volunteers

A volunteer of a nonprofit organization or governmental entity is not liable for harm caused by an act or omission done in the scope of responsibility on behalf of the organization. This applies if the volunteer was properly authorized and licensed, if such is authorization is needed.

Exceptions: the harm was caused by willful or criminal misconduct, gross negligence, reckless misconduct or a conscious, flagrant indifference to the rights or safety of the individual harmed; or if the harm was caused by the volunteer operating a motor vehicle, vessel, aircraft or any vehicle for which a license or insurance is required.

Nothing in this section can be construed to affect a civil action brought by a nonprofit against a volunteer. Nothing in this section can be construed to affect the liability of a nonprofit organization or governmental entity for harm caused to another.

State law exceptions to liability

If the laws of a state limit volunteer liability subject to any other following conditions, the condition won't be construed as inconsistent with this section:

- a law that the organization or entity adhere to risk management procedures, including mandatory training of volunteers;
- a law that makes the organization liable for the acts or omissions of its volunteers to the same extend an employer is liable for employees;
- a law that makes a limitation of liability inapplicable if the action is brought by an officer of state or local government pursuant to state or local law; or
- a law that makes a limitation of liability applicable only if the organization or entity provides a sufficient source of recovery for harmed individuals.

Limitation on punitive damages

Punitive damages may not be awarded against a volunteer for harm caused by the volunteer in the scope of responsibility to a nonprofit organization or government entity, unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of the volunteer that constituted willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

Exceptions to Limitation on Liability

The limitations on volunteer liability under the VPA don't apply to misconduct that constitutes a crime of violence or international terrorism for which the defendant has been

convicted in a court, misconduct that constitutes a hate crime, misconduct that constitutes a sexual offence, misconduct in which the defendant is found to have violated a state or federal civil rights law, or misconduct where the defendant was under the influence of drugs or intoxicating alcohol.

42 U. S. C. S § 14504, Liability for non-economic loss
In a civil action against a volunteer who has acted in the scope of responsibility to a nonprofit organization or a governmental entity, each defendant who is a volunteer is only liable for non-economic loss in direct proportion to the percentage of their responsibility of the harm.

Frequently Asked Questions About the Volunteer Protection Act

Has the number of lawsuits filed against volunteers and nonprofits changed because of the Volunteer Protection Act?
There are no signs that that the number of suits filed against volunteers or nonprofits has decreased since the enactment of the VPA. This is probably because the VPA doesn't prohibit lawsuits; it simply provides a limited defense for certain volunteers under certain circumstances. Furthermore, the VPA may be helpful to plaintiffs seeking damages from volunteers, in that it makes it clear how a suit must be styled to require a review of the facts by a judge or jury.

Does the Volunteer Protection Act protect anyone working in a "volunteer" capacity? Do volunteers who receive a modest stipend enjoy protection under the law?
The VPA specifically protects a volunteer who:
(1) performs services (including officers, directors, trustees and direct service volunteers); (2) volunteers for a nonprofit organization or governmental entity; and (3) either (a) receives no compensation (although reasonable reimbursement for expenses incurred is allowed), or (b) does not receive anything of value in lieu of compensation in excess of $500 per year.

Therefore, volunteers who don't meet these conditions enjoy no protection under the VPA. For example, someone working as a volunteer for an organization that isn't a nonprofit under the laws of the state in which it operates — such as a new organization that has yet to incorporate as a nonprofit — would arguably not be protected by the law. A volunteer who receives a stipend of $50 per month, or $600 annually, is not protected under the VPA.

Does the Volunteer Protection Act protect nonprofits in addition to volunteers?
The VPA doesn't affect the liability of nonprofits and governmental entities with respect to harm caused by volunteer actions. According to the law's principal sponsor Rep. Porter, the intent of the Volunteer Protection Act, first introduced in 1986, was to "shield volunteers from being sued except in cases of willful or wanton misconduct." In the Republican Weekly Radio Address delivered on April 19, 1997, Porter explained that "The idea here is that if litigation must arise from volunteer activity, the nonprofit organization itself should be named, not individual volunteers."

The Volunteer Protection Act in no way affects or changes common law charitable immunity that still exists in some states, but has been eliminated in most jurisdictions.

What are the benefits of federal volunteer protection?
Legislative sponsors and nonprofit proponents of federal volunteer protection argued that the fear of liability negatively affected volunteerism in America and that the new law would enhance volunteerism by:

- *encouraging a comprehensive and consistent approach to volunteer immunity* so that volunteers serving in different states will be treated similarly. The law was intended to fill the gaps created by the divergent and wide-ranging differences in current state volunteer immunity laws.
- *reducing prospective volunteers' fear of liability.* This enhancement was purportedly required to meet the increasing need for volunteer services demanded by growing gaps in government and private-sector programs. Sponsors and supporters of the law argued that by reducing the threat of frivolous lawsuits against good-hearted, well-intentioned volunteers, the new law would increase volunteerism and much needed community involvement.

Does the VPA protect volunteers with regard to the most likely types of suits?
No. Because most suits against volunteers are employment disputes, the exclusion of suits alleging violation of state and federal civil rights laws serves to eliminate from coverage by the act many — if not most — of the suits brought against board members and managers of nonprofits. Another common source of claims stems from automobile accidents in which a volunteer was driving. The VPA does not protect these volunteers.

Are there any potential negative consequences of federal volunteer protection?
There are several troubling consequences of the Volunteer Protection Act, including:

- Volunteers and nonprofit organizations often serve highly vulnerable populations that are unable to select their volunteer caregivers. With a lessened fear of being held liable except for wanton or criminal acts, volunteers may act inappropriately. Volunteers may be more likely to take unacceptable risks or accept assignments and responsibilities for which they have not received training. In addition, volunteers may not take their heightened duty of care for vulnerable populations seriously and, over time, feel less accountable for their actions.
- The VPA may reduce interest in and emphasis on risk management and safety programs over time. Risk management provides a means of protecting clients from harm, safely administering volunteer programs and preventing injuries. In many respects, the fear of liability has been an effective motivator for staff and volunteers to seek training and support in designing risk management programs.
- The current tort system provides incentives for volunteers (and others) to exercise appropriate and reasonable care. Most U.S. citizens expect the people to whom they have entrusted the care of their children, elderly parents and others to follow the reasonable person standard.
- The VPA – and the state volunteer protection laws – have created the false impression that volunteers are immune from lawsuits. The federal Volunteer Protection Act added fuel to existing misconceptions about immunity and caused some to ignore the continuing

possibility of suits against nonprofits and their volunteers. Many volunteers remain *fully liable* for any harm they cause, and all volunteers remain liable for some actions. In addition, only a small percentage of the nation's 1.5 million nonprofits purchase liability insurance. Organizations and individuals who believe they are immune won't be adequately prepared to deal with the consequences (including the financial burden) of lawsuits when they occur. Suits against nonprofits and nonprofit volunteers remain relatively rare. However, when they are filed, the impact on small to mid-sized agencies can be devastating, since most are ill-equipped to manage and finance a defense.

Recent Case Law

Mormons et al v. St. John's Northwestern Military Academy, Inc., 2000 U.S. Dist. LEXIS 5129 (E.D. Ill. 2000)

The parents of a school-age child brought a state fraud action against a nonprofit school and its trustees, claiming they were fraudulently persuaded to enroll their children in the school based on misrepresentations of the trustees. The federal court remanded the case back to state court, but before doing so it reviewed the trustees' defense that they were protected from liability by the federal Volunteer Protection Act (VPA), 42 U.S.C.S. § 14501, as well as the Wisconsin Limited Liability Act, § 181.0855, and another Wisconsin liability statute, § 181.0670.

The court noted that federal VPA protects volunteers, including directors, who perform services for a nonprofit and don't receive compensation exceeding $500 per year. The volunteers are immunized from liability for harm caused by them in the scope of their responsibilities, if the harm is not caused by willful misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the person harmed.

The court noted the parents' claim that the trustees made representations they knew were false, and acted with intent to induce reliance. The VPA doesn't define "willful." But, the court noted, the term does have "a generally established meaning, which is that the actor commits an intentional act of unreasonable character in disregard of a known or obvious risk that harm would probably follow."

The court found it possible that the parents could prove in state court that the trustees acted with enough intent and knowledge that their behavior could constitute "willful misconduct," and thus give them no immunity under the VPA.

The trustees argued that because the federal VPA doesn't pre-empt a state law that provides additional liability protection, Wisconsin law also protected them from liability. Wis. Stat. Ann. § 181.0855(1) provides directors additional protection – beyond the protection offered under the VPA – by immunizing them against conduct that constitutes gross negligence or reckless or conscious indifference. But it doesn't immunize directors for willful conduct. Volunteers are provided similar protection under Wis. Stat. Ann. § 181. 0670(2)(b). Again, that statute provides no protection for willful misconduct.

Also, the Wisconsin Limited Liability Act doesn't apply to claims brought under a private right of action created by state statute. So there could potentially be no immunity for the statutory Consumer Fraud Act claim brought by the parents.

The court noted its uncertainty that the Wisconsin statutes would even be the controlling law that the state court would rely on. The school was incorporated under the laws of Wisconsin and operated in that state. However, each of the trustee defendants was a resident and citizen of Illinois. So the state court could potentially rule that Illinois law was controlling. The Illinois Volunteer Director Liability Act, 805 ILCS § 105/108.70 provides immunity for volunteer directors, but excludes willful and wanton conduct. The statute defines "willful conduct" as a "course of action which shows an actual or deliberate intention to cause harm or which, if not intentional, shows an utter indifference or conscious disregard for the safety or rights of others or their property."

The court found the trustees hadn't met the burden of establishing that the parents couldn't prove the trustees acted fraudulently, despite the various immunity defenses that were potentially open to them.

State Volunteer Protection Statues

Alabama

Charitable Immunity

Nonprofits are immune but only from claims by beneficiaries. *Autry v. Roebuck Park Baptist Church*, 285 Ala. 76 (1969); *Laney v. Jefferson County*, 249 Ala. 612 (1947).

Volunteer Protection Statutes

Non-profit, hospital and government volunteers, volunteer firefighters, and medical professionals who volunteer at a medical clinic are all generally immune from liability if they acted in good faith.

Code of Ala. § 6-5-336, Definition of volunteer
Volunteer is defined as a person performing services for a non-profit organization, non-profit corporation, hospital, or government entity without compensation, other than reimbursement for actual expenses incurred.

Volunteer includes person serving as a director, officer, trustee or direct service volunteer.

Volunteers are immune from civil liability for acts or omissions if volunteer acted in good faith, and within scope of official functions and duties.

Exceptions: damage or injury caused by willful or wanton misconduct.

Code of Ala. §6-5-335, Volunteer firefighters
Members of a volunteer, non profit fire department who in good faith and without compensation enter property to protect it from fire shall not be liable for civil damages to volunteers or owners of property.

Exceptions: civil damage for wanton misconduct.

Code of Ala. §6-5-633, Volunteer medical professional
A medical professional who, in good faith, offers services as part of an established, free clinic, shall not be liable for acts or omissions.

Exceptions: willful or wanton misconduct.

Recent Case Law

Junkins v. *Glencoe Volunteer Fire Department*, 685 So. 2d 769, 1996
The court looked at the volunteer fire department immunity statute, §6-5-335, and found that a member of a volunteer, non-profit fire department who was accused of negligence in fighting the fire was afforded immunity. The court said the purpose of the code is to ensure that towns will have volunteer firefighters, and the code would not be interpreted so as to render it meaningless. The court wrote that the legislature intended the grant of immunity to encompass fire departments as well as fire districts.

Knowles v. *State Farm Mutual Auto Insurance Co*., 781 So. 2d 211, 2000
A person was injured on a hayride sponsored by The Woodman of the World Lodge, and sued the volunteer hayride operator and the hayride company. The volunteer was held to be not liable as a matter of law, due to Alabama's Volunteer Service Act, §6-5-336, which provides immunity to volunteers for negligence if they act in good faith and within the scope of their official duties as volunteers. The injured party settled with the hayride company for $32,000, and then sued his own insurance company. The court said secondary coverage would only be available if enough coverage hadn't been available from the primary coverage of the hayride company.

Alaska

Charitable Immunity

No immunity. *Tuengel v. City of Sitka*, 14 Alaska 546 (1954); *Moats v. Sisters of Charity of Providence*, 13 Alaska 546 (1952).

Volunteer Protection Statutes

Under Alaska's volunteer protection law, tort damages may not be collected from non-compensated members of specific non-profit groups, except where the volunteer's act or

omission constituted gross negligence. Alaska also has a Good Samaritan law providing that that a person who offers emergency medical aid may not be held liable for civil damages. Additional sections of the code pertain to certain types of volunteers, including:

- Hospice volunteers and civil defense volunteers, who are not liable for death, injury, or damage to property that occurs during the scope of their duties;
- Volunteers for fraternal benefit societies,
- Volunteers for the Commission on Aging, and
- Volunteer guardians ad litem are not liable for acts that occur during the good faith performance of their duties.

Alaska Stat. § 09.65.170, Immune from tort damages
A person may not recover tort damages for personal injury, death, or damage to property for an act or omission in the scope of official duties from:
1. a member of a board of directors or an officer or a non profit corporation,
2. a member of a board of directors of a public or non profit hospital, or member of a citizen's advisory board,
3. a member of a school board or school district,
4. a member of the governing body, a commission, o a citizen's advisory committee of a municipality of the state,
5. a member of the board of directors, an officer, or an employee of a regional development organization

Exceptions: the act or omission constituted gross negligence.

Alaska Stat. § 09.65.090, Good Samaritan Law
A person, at a hospital or any other location, who renders emergency care or counseling to an injured, ill, or emotionally distraught person who reasonably appears to be in immediate need of emergency help is not liable for civil damages as a result the of act or omission.

A volunteer member of an organization that exists for the purposes of providing emergency services is not liable for civil damages that result from providing first aid, search, rescue, or emergency services, regardless of whether the person is under a pre-existing duty to assist.

Alaska Stat. § 18.18.340, Hospice volunteer
A person may not recover damages for personal injury, death, or damage to property from a hospice volunteer for an act or omission in the scope of official hospice duties.

Exceptions: the act or omission constituted gross negligence, recklessness, or intentional misconduct.

Alaska Stat. § 21.84.045, Fraternal benefit society volunteer
A director, officer, employee, or volunteer of a fraternal benefit society serving without compensation is not liable for damages resulting from the exercise of judgement or discretion in connection with the duties or responsibilities of the society.

Exceptions: reckless or intentional misconduct.

Alaska Stat. § 26.20.140, Civil defense volunteer
No volunteer engaged in civil defense activity, complying or seeking to comply with regulations or ordinances, is liable for the death or injury of persons or damage to property as a result of such activity.

Alaska Stat. § 44.21 236, Commission on Aging volunteer
A volunteer for the Alaska Commission on Aging is immune from civil or criminal liability for the good faith performance of official duties.

Alaska Stat. § 44.21.450, Volunteer guardian ad litem
A volunteer guardian ad litem, under supervision of public advocacy, is not civilly liable for acts or omissions during good faith performance of duties.

Exceptions: acts or omissions that constitute gross negligence.

Arizona

Charitable Immunity

Immunity abolished. *Roman Catholic Church v. Keenan*, 74 Ariz. 20, 243 P.2d 455 (1952).

Volunteer Protection Statutes

Volunteers serving nonprofits or governmental agencies in Arizona enjoy immunity from civil liability as long as it is proven they acted in good faith and within the scope of their official duties. It's important to keep in mind that these determinations are factual in nature, issues to be determined by the trier of fact (judge or jury) in a particular case. However, the statute also makes it clear that proof establishing that a volunteer was acting within the scope of his duties is sufficient to establish the *vicarious liability* of the nonprofit deploying the volunteer. This presumption of vicarious liability is specified in some, but not all, other states' statutes.

A.R.S. § 12-982, Volunteer protection
A volunteer is immune from civil liability in any action based on an act or omission resulting in damages if volunteer acted in good faith and within scope of official functions and duties for a non profit corporation or non profit organization, hospital or governmental entity.

Exceptions: damage or injury caused by willful, wanton or grossly negligent misconduct.

In any suit against a non-profit corporation or organization, hospital or governmental entity for civil damages based on the negligent act or omission of a volunteer, proof that the act or

omission was within scope of volunteer's official duties and functions is sufficient to establish vicarious liability of the organization.

When a motor vehicle operator is acting as a volunteer for the non profit corporation or organization, the liability of the motor vehicle insurance carrier with respect to the insured and any other person using the vehicle with the express or implied permission of the insured shall extend to provide coverage for the non-profit for the acts of the operator.

A.R.S. § 12-7-15, Volunteer donations
A person, or public or legal entity that makes a good faith donation of used or excess fire control, fire rescue or emergency medical equipment to a fire department, fire district or volunteer fire department, and at the time believes the equipment is serviceable, is not liable for damages in any civil action for injury or death due to the condition of the equipment.

Exceptions: injury or death resulting from intentional misconduct, or gross or ordinary negligence of donor.

A.R.S. § 20-867, Fraternal benefit society volunteer
A director, officer, employee, member or volunteer of a fraternal benefit society who serves without compensation is not personally liable for damages resulting from acts or omissions within the scope of duty.

Exceptions: acts or omissions caused by wanton or willful misconduct.

A.R.S. § 26-314, Emergency volunteer
Volunteers enrolled or registered with the Division of Emergency Management or any political subdivision, in a local emergency, state of emergency, or war emergency, who are complying with orders or rules, or performing authorized duties have the same responsibilities and enjoy the same immunities as employees of the state performing similar work.

A.R.S. § 32-1452, Rehabilitation program volunteer
A volunteer who assists in the State board's substance abuse treatment and rehabilitation program is not subject to civil liability for the actions of a doctor attending programs pursuant to board action.

Arkansas

Charitable Immunity

Arkansas courts may grant charitable immunity to nonprofit organizations after considering eight factors established by the Arkansas Supreme Court. These factors are:

1. whether the charter limits the organization to charitable or eleemosynary purposes;
2. whether the organization's charter contains a not for profit limitation;
3. whether the organization's goal is to break even;

4. whether the organization earned a profit;
5. whether any profit or surplus must be used for charitable or eleemosynary purposes;
6. whether the organization depends on contributions and donations for its existence;
7. whether the organization provides its services free of charge to those unable to pay;
8. whether the directors and officers receive compensation.

Recent case law

George v. *Jefferson Hospital Association, Inc.*, 337 Ark. 206, 987 S.W.2d 710 (1999)
The court granted a hospital charity status in a lawsuit and said that the hospital could raise the charity immunity doctrine as a defense.

Ouachita Wilderness Institute v. *Mergen*, 329 Ark. 405, (1997)
This case involved a juvenile rehabilitation camp where a boy stole an employee's keys and caused damage to his car. The employee sued the camp. The court said the organization was not immune under the Arkansas Volunteer Immunity Act, because the act was intended to protect individual volunteers, not the volunteer agency.

The camp was also not immune under the charitable immunity doctrine because the court's examination of the camp and the circumstances of the case found it failed to meet the factors the Arkansas Supreme Court considers in determining whether charity immunity shall apply in a particular instance.

Volunteer Protection Statutes

The Arkansas Volunteer Immunity Act protects "qualified volunteers" from civil liability for personal injury or property damage in instances where the volunteer was working within the scope of his or her duties. The preface to the Act, which describes its purpose, states as follows:

> "Since the spirit of volunteerism has long animated citizens of this state to give of their time and abilities to help others, the State of Arkansas would be wise to ensure that qualified volunteers shall not be civilly liable for personal injury or property damage resulting from any act or omission in carrying out their authority or responsibilities as volunteers. While there are no known recent instances in Arkansas where a volunteer has been subjected to personal liability for negligence in performing volunteer duties, and there are no cases presently known to be pending, the recent publicity generated in relation to the perceived insurance crisis has heightened concern among many who would provide volunteer services, making it more difficult to provide certain important services, cultural and educational events, and other opportunities to the citizens of the State of Arkansas through voluntary services. This subchapter limits and defines the liability of volunteers in order to diminish their concern with regard to personal liability associated with volunteer work, in order that the state might maximize this important human resource."

The statute's language differs somewhat from other states in that the language about scope of duties is worded as follows "carrying out their authority or responsibilities as volunteers." Volunteer is specifically defined as someone who works without financial compensation. There is one very unusual exception in the statute that limits the protection afforded if the volunteer is covered by liability insurance. Where this is the case, the limits liability for ordinary negligence to the limit of the insurance policy.

There is a separate statute providing that volunteer firefighters are not civilly liable for injuries or damages.

see Ark. Stat. Ann. *§ 16-6-101 to 105 (2000)*

A.C.A § 16-6-102, Volunteer protection
Qualified volunteers are not civilly liable for personal injury or property damage resulting from any act or omission in carrying out their authority or responsibilities as volunteers.

A.C.A. § 16-6-103, Definition of volunteer
A qualified volunteer is *defined as* any person who, of free will, provides goods or services without financial compensation to or through a volunteer agency in connection with a volunteer program

A volunteer agency is *defined as* any volunteer program of state government, a community volunteer organization, or not for profit organization, other than one designed principally for recreational benefit of stockholders or members.

Volunteer activity is *defined as* any activity within the scope of a project, program, effort or activity sponsored by a volunteer agency with the intent to effect a charitable, publicly beneficial effect, including but not limited to enhancement of cultural, civic, religious, educational, scientific, or economic resources of the community.

A.C.A § 16-6-104, No vicarious liability for a volunteer
A qualified volunteer shall not be held vicariously liable for negligence of another in connection with or as consequence of volunteer activities.

Nothing in subchapter should be construed so as to limit one acting outside of the scope of volunteer activities.

Nothing in subchapter should be construed so as to limit liability of any voluntary agency.

A.C.A § 16-6-105, Volunteer protection
A qualified volunteer shall not be liable in damages for personal injury or property damage sustained by one who is a recipient of the services and benefits of a volunteer by reason of act or omission the volunteer

Exceptions:
1. If the volunteer is covered by insurance policy, in which case liability for ordinary negligence is limited to the amount coverage provides.
2. If the volunteers acts in bad faith or is guilty of gross negligence.
3. If the volunteer operates a motor vehicle, aircraft, boat, or other powered mode of conveyance.
4. Where the volunteer negligently performs professional services for an individual which the volunteer is licensed to perform, including legal, engineering, and accounting services.

A.C.A. § 16-5-101, Volunteer fire fighter
No volunteer firefighter, board member or administrative personnel of volunteer fire department shall be civilly liable for personal injury or property damage resulting from the act or omission of a volunteer fire fighter in carrying out official duties if act or omission was in good faith.

Exception: an act or omission that constituted gross negligence.

California

Charitable Immunity

Immunity abolished. *Malloy v. Fong*, 37 Cal. 2d 356, 232 P.2d 241 (1951).

Volunteer Protection Statutes

Non-profit directors and officers acting in good faith are not liable for monetary damages to a third party. Volunteers acting for the Office of Emergency Services during an emergency have the same immunity as do state employers. Volunteers who offer advice to small claims court litigants are not liable to suit. Emergency medical personnel who act in their official scope are immune from suit. Architects and engineers who offer site inspection services following an emergency are immune from suit.

Cal Gov. Code § 5239, Non-profit volunteer immunity
A volunteer director or executive officer of a nonprofit corporation is not liable for monetary damages to a third party if the act or omission was done in good faith and within the scope of duty.

Exceptions: reckless, wanton, gross or intentional negligence.

Cal Gov. Code § 8657, Volunteers pressed into service during emergency
Volunteers enrolled with the Office of Emergency Services, or any disaster council, or unregistered persons impressed into service during an emergency have the same responsibility and immunity as officers and employers of the state.

Cal Gov. Code § 818.9 Immunity from liability for advice given to small claims litigants
Volunteers of a public entity are not liable for any advice given to small claims court litigants pursuant to the Small Claims Act.

Cal Bus and Prof Code § 5536.27, Architectural volunteer
An architect who voluntarily and without compensation provides structural inspection services at the scene of an emergency at the request of a public official is not liable in negligence for injury or damages caused by the architect's good faith. This immunity applies for inspections that occur within 30 days of the emergency.

Exceptions: gross or willful misconduct.

Cal Bus and Prof Code § 6706, Engineering volunteer
An engineer who voluntarily and without compensation provides structural inspection services at the scene of an emergency at the request of a public official is not liable in negligence for injury or damages caused by the engineer's good faith. This immunity applies for inspections that occur within 30 days of the emergency.

Exceptions: gross or willful misconduct.

Cal Health and Serf Code §1799.107, Qualified immunity for personnel engaging in emergency rescue operations
A public entity or emergency rescue personnel is not liable for injury caused by an act made within the scope of employment to provide emergency services. "Emergency rescue personnel" includes volunteer firefighters.

Exceptions: act made in bad faith or in a grossly negligent manner.

<u>Recent Case Law</u>

Munoz v. City of Palmdale, 75 Cal. App. 4th 367, 1999
A volunteer placed a coffeepot on a shelf at a senior center. The pot fell and injured a woman. The court granted the senior center immunity from vicarious liability for the volunteer's actions, because she was acting as a volunteer, not as an employee.

Wolfe v. Dublin Unified School District, 56 Cal. App. 4th 126, 1997
A child was injured while driving home from a school field trip with a parent driver who was serving as a volunteer. The child's parents sued the driver and the school, and the driver brought a cross claim against the school. The court found that § 35330 immunized the school from suit based on injury or accident resulting from a school-sponsored field trip. The court commented that to decide otherwise would discourage schools from planning such extracurricular activities.

Section 35330 includes a provision indicating that, "All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of

California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion."

Colorado

Charitable Immunity: Liability of Nonprofits Limited to Insurance Coverage
§ 7-123-105. Actions against nonprofit corporations

"Any other provision of law to the contrary notwithstanding, any civil action permitted under the laws of this state may be brought against any nonprofit corporation, and the assets of any nonprofit corporation that would, but for articles 121 to 137 of this title, be immune from levy and execution on any judgment shall nonetheless be subject to levy and execution to the extent that such nonprofit corporation would be reimbursed by proceeds of liability insurance policies carried by it were judgment levied and executed against its assets."

Note: articles 121-137 concern organizational matters for nonprofits in Colorado, such as filing requirements.

Volunteer Protection Statutes

A volunteer acting in good faith for a non-profit organization or corporation, or a hospital is immune from civil liability. This immunity doesn't extend to acts involving a motor vehicle. Charity-bingo volunteers and volunteers assisting organizations that aid young people are immune from civil liability. Volunteer fire, ambulance or emergency personnel performing their duties are not liable for injury or damages.

C. R. S. § 13-21-115.5, Volunteer Service Act
Any volunteer is immune from civil liability in any action based on an act or omission of the volunteer that resulted in damage or injury. This immunity applies if the volunteer was acting in good faith and within the scope of official functions and duties for a non-profit organization or corporation, or a hospital. Nothing in this section bars a cause of action against or changes the liability of a non-profit organization, corporation, or hospital arising out of an act or omission of a volunteer exempt from liability for the negligence under this section.

Exceptions: willful or wanton misconduct by the volunteer. Also, a plaintiff may sue a volunteer based on a negligent act or omission involving a motor vehicle. The amount recovered may not exceed the amount of insurance held by the volunteer with respect to the negligent operation of a motor vehicle in such circumstances.

C. R. S. § 12-9-111, Volunteer services immunity
All bingo-raffle volunteers are immune from civil actions and liabilities if they acted in good faith and within the scope of their official duty for a charitable organization.

Exception: willful and wanton misconduct, gross negligence, reckless misconduct, conscious and flagrant indifference to the rights or safety of the individual harmed.

C. R. S. § 13-21-116, Immunity for volunteers assisting young people
A person is not deemed to have assumed a duty to care where none otherwise existed if they perform volunteer service without compensation and for the benefit of another.

A member of the board of directors of a non-profit organization or corporation will not be held liable for actions taken within the scope of duty.

Exceptions: wanton and willful acts or omissions.

A person who volunteers as a leader, assistant, teacher, coach, or trainer for any group, organization or program providing activities for young people is not liable in the performance of her duties.

Exceptions: wanton and willful acts or omissions. Immunity from liability doesn't extend to protect persons from liability for acts that harm third parties.

C. R. S. § 24-32-2605, Emergency volunteers
A volunteer fire, ambulance or emergency service group, when engaged in emergency service or responding to a hazardous material release is not liable for death, injury, damage or loss.

Exceptions: acts or omissions that constitute willful misconduct.

Recent Case Law

Gilmore v. Concerned Parents of Pueblo, 2000 Colo. App. LEXIS 1874
A worker at a juvenile detention facility assigned work to a juvenile who was injured while performing the assigned task. The Court found that as a compensated employee, the worker was not a volunteer performing services for young people under §13-21-116 and was therefore ineligible for the immunity provided under the law.

Yonker by and Through Helstrom v. Thompson, 939 P. 2d 530, 1997
A man volunteered to be a guardian ad litem for a child involved in a custody dispute. The child was kidnapped. The Court found that the guardian ad litem was entitled to immunity under § 24-10-101, because the immunity granted to public employees of public entities includes authorized volunteers.

Connecticut

Charitable Immunity

Immunity abolished. Conn. Gen. Stat. Ann. § 52-557d (West).

Volunteer Protection Statutes

An uncompensated member providing service for a non-profit is immune from civil liability. A municipality will pay liability damages for volunteer firefighters and ambulance members, and the board of education pays legal claims of volunteers arising out of negligence. Good Samaritan laws protect various individuals who are properly certified and trained and administer emergency care. Volunteers for the police auxiliary force have the same immunities while responding to an emergency as a regular member of the Division of Police.

Conn. Gen. Stat. § 52-557m, Non-profit immunity
An uncompensated director, officer or trustee of a non-profit is immune from civil liability resulting from any act made in the scope of the individual's official responsibilities if the person was acting in good faith.

Exceptions: the damage or injury was caused by reckless, willful or wanton misconduct of the person.

Conn. Gen. Stat. § 7-308, Liability for damages caused by volunteer
Each municipality of the state shall pay, on behalf of a volunteer fireman or volunteer ambulance member, any damages for liability imposed on the volunteer if the damages resulted from their official duties.

Exceptions: willful or wanton misconduct.

Conn. Gen. Stat. § 10-235, Indemnification for school board volunteers
The board of education will protect any approved volunteer, including school bus safety monitoring volunteers, from legal fees and costs arising out of a claim of negligence by the volunteer. This applies if the volunteer was acting in the discharge of her duties under the direction of the board of education.

Exceptions: wanton, reckless, or malicious acts.

Conn. Gen. Stat. § 29-22, Emergency service volunteers
Members of the volunteer police auxiliary force, while participating in emergency services, have the same immunities and privileges as apply to the regular members of the Division of State Police.

Conn. Gen. Stat. § 52-557b, Good Samaritan Law
A person licensed to practice medicine or surgery, who voluntarily and other than in the ordinary course of employment, renders medical or professional assistance to a person in need, is not liable to the person assisted for civil damages resulting from the acts of the volunteer which may constitute ordinary negligence.

Exceptions: acts or omissions constituting gross, willful or wanton negligence.

A volunteer fireman, policeman, teacher or other school personnel, a member of ski patrol, a lifeguard, a conservation officer, patrolman or policeman for the Department of Environmental Protection, ambulance personnel who has completed a certified first aid course and renders emergency first aid to a person in need is not liable to the person assisted for civil damages resulting from the acts of the individual which may constitute ordinary negligence.

No paid or volunteer fireman, policeman or ambulance personnel who forcibly enters a residence in order to render emergency care is liable for damages resulting in such an entry.

Exceptions: acts or omissions constituting gross, willful or wanton negligence.

An employee of a railroad company who has successfully completed a certified first aid course and renders emergency first aid or CPR to a person in need is not liable to the person assisted for civil damages resulting from the acts of the individual which may constitute ordinary negligence.

Exceptions: acts or omissions constituting gross, willful or wanton negligence.

A railroad company which provides emergency medical training or equipment to an employee granted immunity by this section is not liable for injuries sustained by the company's acts in providing the training or equipment, or which result from the employee's rendering emergency first aid or CPR that may constitute ordinary negligence.

Exceptions: acts or omissions constituting gross, willful or wanton negligence.

A teacher or other school personnel who has completed an authorized first aid course and renders emergency care by administering an injection of medication to a person in need, is not liable to the person assisted for damages resulting from the administering that may constitute ordinary negligence.

Exceptions: acts or omissions constituting gross, willful or wanton negligence.

Recent Case Law

Joanis v. Hinckley, 1997 Conn. Super LEXIS 1253
The Court found that there is no common law duty to warn that a person is a known pedophile. In dicta, the Court said that absent a legal duty there is no duty to volunteer. Therefore, the Good Samaritan Law, § 52-557b, exists to encourage volunteer action where the law imposes no legal duty to volunteer.

Delaware

Charitable Immunity

Immunity not recognized. Statutory limitation on liability of charitable organizations that operate sports programs implies that other charitable organizations are not immune (see Del. Code Ann. tit. 15 § 6835-6836).

Volunteer Protection Statutes

The Delaware volunteer protection law provides that a volunteer of a non-profit organization is not subject to suit in any manner for any civil damages. A separate Good Samaritan Law protects persons who voluntarily render emergency aid and provides that they are not liable for damages in a suit arising from their actions. A separate section of the code provides that volunteers who serve the victim-mediation program are immune from suit.

10 Del. C. § 8133, Limitation from civil liability for certain nonprofit organization volunteers
A volunteer of a nonprofit organization is not subject to suit in any manner for any civil damages under Delaware law resulting from a negligent act or omission performed in connection with the activity of a tax-exempt nonprofit or government agency. A "Volunteer" is any trustee, ex officio trustee, director, officer, agent or worker who is engaged in an activity without compensation.

Exceptions: acts or omissions constituting willful or wanton or grossly negligent conduct. A plaintiff may sue due to negligent act or omission relating to the operation of a motor vehicle. The amount recovered from the volunteer may not exceed the insurance coverage held for negligent operation of a motor vehicle under the circumstances.

Proof of an act or omission by a volunteer that establishes a basis for the volunteer's immunity shall be sufficient to establish the liability of the organization under the doctrine of respondeat superior.

16 Del. C. § 6801, Liability for persons rendering emergency care
Any person who voluntarily and without compensation renders first aid, emergency treatment or rescue assistance to a person in need shall not be liable for damages alleged to have been caused by the rendering of aid. This section applies to volunteer, non-profit or government ambulance units whether or not a user fee is charged and whether or not the volunteer or employee receives a salary or compensation.

Exceptions: injuries or death caused willfully, wantonly, or recklessly or by gross negligence on the part of the person.

This section does not apply if the emergency aid is rendered on the premises of a hospital or a clinic.

This section will not be construed so as to require a person who is ill to be administered assistance if the person objects to such assistance on religious grounds.

11 Del. C. 9505, Immunity for victim-offender mediation volunteers
Volunteers of a victim-offender mediation program are immune from suit in a civil action based on the proceedings or acts performed in their capacity as volunteers.

Exceptions: willful or wanton misconduct.

District of Columbia

Charitable Immunity

Immunity abolished. *Georgetown College v. Hughes*, 76 U.S. App. D.C. 123, 130 F.2d. 810 (1942).

Volunteer Protection Statutes

Volunteers and directors of stipulated non-profits are immune from civil liability.
Health care providers working in free clinics are not liable in civil damages for the care they provide. Free clinics that cannot afford insurance and their volunteers can be a part of a government indemnification program. Civil defense volunteers are not liable for civil damages.

D.C. Code § 29-599.15, Non-profit volunteers
Any person who serves in good faith as a volunteer, including an officer, director, trustee or any person who performs uncompensated services for the organization, is immune from civil liability for acts and omissions within the scope of duty.

Exceptions: willful misconduct, criminal conduct, or a transaction that resulted in an improper benefit to the volunteer.

This immunity applies only if the non-profit corporation maintains liability insurance with a limit of coverage not less than $200,000 per individual claim and $500,000 per total claim that arise from the same transaction.

D.C. Code § 2-1345, Health care volunteers
A licensed physician, registered nurse or certified midwife providing medical care at or on behalf of a free clinic is not liable in civil damages for an act or omission in the course of rendering care.

Exceptions: the act or omission is an intentional wrong or manifests a willful or wanton disregard for health or safety.

The health care provider must require the prospective patient to sign a written statement agreeing to the rendering of care.

D.C. Code § 1-308.2, Free clinics
A free clinic and volunteer service providers, unable to purchase insurance, that are a part of the District government indemnification program are considered employees of the District government for indemnification purposes.

D.C. Code § 6-1406, Civil defense volunteer
A volunteer agency or volunteer worker engaged in civil defense activity is not liable to any person for death, injury, or property damage resulting from acts or omissions of the volunteer.

Exceptions: willful misconduct or gross negligence.

Florida

Charitable Immunity

Immunity abolished. *Wilson v. Lee Memorial Hosp.*, 65 So. 2d 40 (Fla. 1953) (holding that charitable immunity would violate the Florida Constitution); *Nicholson v. Good Samaritan Hosp.*, 145 Fla. 360, 199 So. 344 (1940).

Volunteer Protection Statutes

Under the Florida Volunteer Protection Act, a person who volunteers for a non-profit organization is considered an agent of the nonprofit and is not liable for good faith acts or omissions. Separate code sections provide that a volunteer team physician who renders emergency care is not liable for civil damages, and a good faith donor, or a non-profit organization that accepts donated food is not subject to criminal penalties or civil liability.

Fla. Stat. § 768.1355, Florida Volunteer Protection Act
A person, including an officer or a director, who volunteers to perform any service for a non-profit group, with no monetary or material compensation, is not liable for any act or omission which results in personal injury or property damage if they acted in good faith, within the scope of duty, and the volunteer acted as a reasonably prudent person would under the same or similar circumstances.

Exceptions: injury or damage caused by wanton or willful misconduct on the part of the person performing the duties.

Fla. Stat. § 430.204, Protection for elder-care volunteers
The department for community care for the elderly may provide appropriate insurance to protect volunteers from personal liability while acting within the scope of their duties.

Fla. Stat. § 768.135. Volunteer team physicians
A volunteer team physician, who is in attendance at an athletic game sponsored by a public or private elementary or secondary school and agrees in good faith prior to the event to render emergency care during or as a result of the event, is not liable for civil damages resulting from the care rendered. This applies if the care was rendered as a reasonably prudent person licensed to practice medicine would have done under the same or similar circumstances.

Fla. Stat. § 768.136, Volunteer donators
A good faith donor who donates food apparently fit for human consumption will not be subject to criminal penalty or civil damages arising from the condition of the food.

Exceptions: gross negligence, recklessness, or intentional misconduct on the part of the donor.

A charitable or non-profit organization or a volunteer acting on behalf of such organization that collects, transports or distributes food apparently fit for human consumption will not be subject to criminal penalty or civil damages arising from the condition of the food.

Exceptions: gross negligence, recklessness, or intentional misconduct on the part of the donor.

Recent Case Law

Halenda v. Habitat for Humanity, 125 F. Supp 2d 1361, 2000
A husband and wife were en route to perform work for Habitat for Humanity when they were involved in a car accident with another family. The family sued Habitat for Humanity alleging that the nonprofit was vicariously liable. The court found that the wife was an employee of Habitat for Humanity, but the husband, who was driving at the time of the accident, was a volunteer and not an agent of Habitat for Humanity. The court declined to hold Habitat for Humanity vicariously liable.

Baxter v. Hog Valley Volunteer Fire Department, 669 So. 2d 285, 1996
A paid, county firefighter was injured while working alongside firefighters from a city volunteer fire department. He sued the volunteer fire department for negligence. The fire department claimed governmental immunity. The Court found that the firefighters worked for a private, non-profit fire department and were not controlled by the county. The Court found that the mention of "volunteer" in the definition of employee in the Worker's Compensation Law signified those who volunteer directly for the county. The volunteer firefighters were therefore not entitled to governmental immunity.

Georgia

Charitable Immunity

A charitable institution is not liable for the negligence of its officers and employees, unless the institution fails to exercise ordinary care in the selection or retention of competent officers and employees (*Bagley v. Fulton-DeKalb Hosp. Auth.*, 455 S.E. 2d 325, Ga. App. 1995), or where the plaintiff is a paying recipient of services from the organization (*Mack v. Bethel A.M.E. Church, Inc.*, 125 Ga. App. 713, 188 S.E. 2d 915 (1972).

Under Georgia law, directors and officers of nonprofits enjoy limited protection from liability, as do other specified groups of volunteers, as indicated in the state statute summaries below. A separate provision protects "community service volunteers."

Volunteer Protection Statutes

O. C. G. A. § 51-1-20, Charitable organization volunteer
A member, director, trustee or officer who serves without compensation for a non-profit hospital or association or a charitable organization is immune from civil liability for an act or omission done in service if they were acting in good faith and within the scope of their duties.

Exceptions: damage or injury was caused by willful or wanton misconduct.

O. C. G. A. § 42-8-70, Community service volunteers
A community service agency or volunteer officer is not liable for acts performed while participating in a community service program.

Exceptions: gross negligence, recklessness or willful misconduct.

O. C. G. A. 51-1-20.1, Sports program volunteer
Volunteers for a sports program or safety program of a non-profit association are not liable for acts or omissions in conducting or sponsoring the programs. This applies to volunteers acting in good faith and within the scope of assigned duties.

Exception: willful and wanton misconduct or gross negligence. Immunity is waived when a person against who an action is taken has bought and insurance policy for such claims, but the waiver only applies to the extent of the liability insurance purchased.

O. C. G. A. § 20-2-1001, Volunteer educator
A volunteer educator is immune from criminal liability for an act or omission resulting from disciplining a student or reporting a student for misconduct, as long as the educator acted in good faith.

O. C. G. A § 38-3-35, Emergency management volunteers

A volunteer management worker complying with or attempting to comply with orders or regulations is not liable for death, injury or damage to property as a result of such activity.

O. C. G. A. § 51-1-29, Emergency aid liability
Any person licensed to practice medicine, who renders emergency care at the scene of an accident or emergency in good faith and doesn't charge a fee, is not liable for civil damages for any act or omission in rendering aid or for any act or failure to act in providing further medical treatment to the injured person.

O. C. G. A. § 51-1-30, Volunteer firefighter immunity
A volunteer firefighter is not liable for any act or omission done while fighting a fire or performing duties at the scene of an emergency.

Exceptions: willful negligence or malfeasance.

Recent Case Law

Stephens v. Conyers Apostolic Church, 243 Ga. App. 170, 2000
The court said that a pastor involved in a car accident with the church van was entitled to charitable immunity, as he was the agent of the church with primary custody of the vehicle. The court also found that the church waived immunity by taking out an insurance policy on the van.

Department of Human Resources v. Mitchell, 518 S. E. 2d 440, 1999
A man was sentenced to perform community service and was injured while performing community service in a hospital. The court found that the hospital was an agency under the Community Service Act, and that the community service agency and officer were immune from liability under the community service liability act.

Hawaii

Charitable Immunity

Immunity not recognized.

Volunteer Protection Statutes

A volunteer is generally immune from civil liability. A volunteer engaged in disaster relief is not criminally or civilly liable for their duties. A Good Samaritan who renders care in good faith is not liable for civil damages.

HRS § 662-D2, Volunteer immunity
A volunteer is immune from civil liability for an act or omission resulting in damage or injury caused by the volunteer's negligent conduct. This applies if the volunteer acted in good faith and within the scope of duty for a non-profit organization or corporation, a

hospital or a government entity; and if organization has a general liability policy during the time of injury and at the time the claim is made of not less than $200,000 per occurrence and $500,000 aggregate; or the organization has total assets of less than $50,000.

HRS § 127-7, Disaster relief volunteer
A volunteer engaged in disaster relief whose services were accepted by an authorized person is not civilly or criminally liable for acts done in pursuance of duty.

Exceptions: A person may recover for injuries or damage sustained from the operation if an insured motor vehicle.

HRS § 663-1.5, Good Samaritan
Any person who renders emergency care at the scene of an accident or emergency in good faith and without compensation is not liable for civil damages resulting from the person's acts or omissions.

Exceptions: gross negligence or wanton acts or omissions.

Idaho

Charitable Immunity

Immunity abolished. *Bell v. Presbytery of Boise*, 91 Idaho 374, 421 P.2d 745 (1966).

Volunteer Protection Statutes

Members and volunteers who serve non-profit organizations are immune from civil liability arising from official conduct. Volunteer ambulance attendants are immune from suit. Guardians ad litem are personally immune from suit for official acts. A volunteer for a fraternal benefit society is not liable for damages, and no suit may be brought against him. A health care provider who provides services at a charitable clinic is immune from liability for a civil action.

Idaho Code § 6-1605, Non-profit directors and volunteers
Officers, directors and volunteers who serve a non-profit organization or corporation without compensation are immune from civil liability arising out of conduct that was within the course and scope of their duties and was at the direction of the corporation or organization.

Exceptions: No immunity attaches to the following categories of conduct:
- conduct which was willful, wanton, or involves fraud or knowing violation of the law;
- conduct for which liability insurance was purchased to the extent that it was purchased;
- intentional breach of fiduciary duty owed to the organization, corporation or members;
- acts or omissions not in good faith and involving intentional misconduct, fraud or knowing violation of the law;

- a transaction from which the officer, director or volunteer received an improper, personal benefit;
- damages that result from operation of a motor vehicle; and
- violations of Idaho Nonprofit Corporation Act.

Idaho Code § 5-333, Volunteer ambulance attendant
No action will lie against a volunteer ambulance attendant who administers first aid as part of volunteer services to any person using the volunteer service. This immunity ceases upon delivery of the injured or ill person to a hospital or recognized place of treatment, or delivery to a person or office that has undertaken to treat the injured or ill person.

Idaho Code § 16-1633, Guardian ad litem
Anyone appointed as a guardian ad litem, coordinator, or a guardian ad litem volunteer program employee is personally immune from liability for acts, omissions or errors as if they were a volunteer officer or director under Idaho Code §6-1605.

Idaho Code § 41-3208, Fraternal benefit society
No volunteer of a fraternal benefit society who serves without compensation is liable, and no action can be brought against him, for damages resulting from the exercise of judgement in conjunction with duties for the society.

Exception: the act or omission involved willful or wanton misconduct.

Idaho Code § 39-7703, Charity health care
A health care provider who voluntarily provides health care services without compensation at a free medical clinic is immune from liability for a civil action arising from the services given.

Exceptions: No immunity for intentional, willful or grossly negligent conduct, or for acts outside of the scope of licensure, certification or registration.

Illinois

Charitable Immunity

Immunity abolished. *Gubbe v. Catholic Diocese of Rockford*, 122 Ill. App. 2d 71, 257 N.E. 2d 239 (1970).

Volunteer Protection Statutes

A director or officer of a non-profit is not liable for damages resulting from the exercise of judgment in their official duties. Volunteers are included as employees in the State Employee Indemnification Act. Court-appointed special advocates are immune from civil and criminal liability. A volunteer rape counselor who discloses authorized records is

immune from civil liability. A volunteer firefighter is not liable in civil suit for damages or injuries caused while in his performance of duties, and the fire department is liable for the damages. A certified person who performs CPR or uses a defibrillator machine on a person in need in an emergency is not liable for civil damages. A certified dentist or physician who renders emergency care is not liable for civil damages. A volunteer who provides services at a free medical clinic is not liable for civil damages.

805 ILCS 105/108.70, Limited liability of directors, officers and persons who serve without compensation
No director or officer of tax exempt nonprofit organized under the state nonprofit corporation act shall be liable and no cause of action may be brought for damages resulting from the exercise of judgement or discretion in connection with the duties and responsibilities of such director unless: the director earns in excess of $5,000 per year from his duties as director (other than reimbursement for actual expenses) or the act or omission involved willful or wanton conduct.

Exception: the director or officer earns in excess of $5,000 per year, other than reimbursement for actual expenses, or the act or omission involves willful or wanton conduct.

No person who, without compensation other than reimbursement for actual expenses, renders service to or for a corporation organized under the state nonprofit corporation act to a tax exempt nonprofit shall be liable, and no cause of action may be brought, for damages resulting from an act or omission in rendering such services

Exception: the act or omission involved willful or wanton conduct.

5 ILCS 350/1, "Employee" includes volunteers for State Employee Indemnification Act
For purposes of the State Employee Indemnification Act, the term "employee" includes people who perform volunteer services for the state and people who volunteer for non-profit organizations as long as the volunteer relationship is in writing.

705 ILCS 405/2-17.1, Court-appointed special advocate
A court-appointed special advocate who serves as a volunteer without compensation and acts in good faith within the scope of duty has immunity from civil and criminal liability. The good faith of a court appointed special advocate will be presumed.

Exceptions: willful and wanton misconduct.

735 ILCS 5/8-802.1, Rape-crisis volunteer
A volunteer rape crisis counselor who participates in good faith in the disclosing of particular records and communications has immunity from civil, criminal or any other liability that may arise from the action.

740 ILCS 75/1, Volunteer firefighter
If a volunteer firefighter causes injury to person or property while engaged in the performance of duty, and the injured person does not contribute to the negligence, the fire district or incorporated fire organization whom the firefighter is working for is liable for the injury.

A volunteer firefighter may enter upon land to carry out his duties and is not civilly or criminally liable. A volunteer firefighter is not liable in damages for injury to person or property caused by him during the performance of duties.

Exceptions: injury resulted from willful and wanton misconduct.

745 ILCS 49/2, Legislative intent
The provisions of the Good Samaritan act will be liberally construed to encourage people to volunteer their time and talents.

745 ILCS 49/10, CPR volunteer
Any certified person who performs CPR up to generally recognized standards without compensation, in good faith, and on a person in need of such is not liable for civil damages for an act or omission.

Exceptions: willful and wanton misconduct.

745 ILCS 49/12, Defibrillator volunteer
Any certified person who renders emergency medical care using an automatic external defibrillator in good faith and without compensation is not liable for civil damages to the person helped.

Exceptions: willful and wanton misconduct.

745 ILCS 49/15, Dental Good Samaritan
Any certified dentist who renders emergency medical care at the scene of an accident without fee is not liable for civil damages.

745 ILCS 49/20, Dental Clinic Volunteer
Any certified dentist who in good faith renders free dental care at clinic is not liable for civil damages.

Exceptions: acts involving willful or wanton misconduct.

Care provided at the clinic shall not include general anesthesia or an overnight visit.

745 ILCS 49/25, Physician Good Samaritan
Any certified physician who provides emergency care without compensation is not liable for civil damages.

Exceptions: willful or wanton misconduct.

745 ILCS 49/30, Medical clinic volunteer
Any person who provides services at a free medical clinic and does not receive compensation is not liable for civil damage for acts or omissions in performing the services.
Exceptions: willful or wanton misconduct.

745 ILCS 10/2-214, Court volunteer
A volunteer is not liable for acts or omissions in performing volunteer services pursuant to a court order that is part of a court volunteer program.

Exception: act or omission constitutes willful or wanton conduct.

745 ILCS 80/1, Volunteer coach
A volunteer who provides services as a manager, coach, instructor, umpire or referee or voluntarily assists a manager, coach, instructor, umpire or referee in a sports program of a non-profit association is not liable for civil damages as a result of rendering services or sponsoring a sports program.

Exceptions: liability relief is not granted if: the conduct of the person falls substantially below typical standards of a similar person rendering similar services, or the person did an act or omitted doing an act that the person had a duty to do, knowing the act posed a substantial risk of harm. Establishing that the person acted below the ordinary standard of care is sufficient to impose liability.

Recent Case Law

Trotter v. School District, 218, 315 Ill. App. 3d 1, 2000
A high school student drowned during swimming class. The court said that the student volunteer lifeguards were entitled to immunity under the Tort Immunity Act, 745 ILCS 10/1-202, which provides that volunteers are included in the definition of employee.

Redmon v. Stone, 195 Ill. App. 3d 517, 1996
A woman's car stalled in the road and she went to a nearby house to request help. The resident agreed to help and returned to the vehicle with the woman. While the good Samaritan was trying to get the car started, another vehicle hit the stalled vehicle. The driver of the moving vehicle sued the owner of the stalled vehicle as well as the person trying to render assistance. The appellate court affirmed the circuit court's decision to grant summary judgment to the "good Samaritan" on the basis that his undertaking did not create a duty in him to remove or illuminate the car.

Indiana

Charitable Immunity

Immunity abolished. *Harris v. YWCA*, 250 Ind. 491, 237 N.E. 2d (1968).

Volunteer Protection Statutes

Volunteer directors serving nonprofits or other agencies without compensation are immune from civil liability. Volunteer fire fighters have insurance policies purchased for them, and cannot be held liable beyond the insurance coverage. Volunteer emergency workers cannot be civilly liable, and guardians ad litem are immune from civil liability.

IC 34-30-4-1, Qualified director, immunity
Notwithstanding any other law, a qualified director is immune from civil liability arising from the negligent performance of the director's duties.

IC 34-30-4-2, Volunteer director, immunity
Notwithstanding any other provision of or any other law, a volunteer director who serves a non-profit corporation or agency without compensation and exercises reasonable care in the performance of their duties is immune from civil liability arising out of the performance of duties.

IC § 34-30-4-3, Liability of organizations or entity
The above laws do no not affect the civil liability of the entity the director serves.

IC § 36-8-12-8, limitations on liability
The civil liability of a volunteer firefighter for an act or failure to do an act within the scope of duty while performing emergency services at the scene of a fire or other emergency, or while traveling to or from an emergency scene, is limited to the amount of insurance coverage purchased pursuant to this act. If there is no insurance coverage, the firefighter will not be subject to civil liability. A volunteer firefighter is not liable for punitive damages for an act within the scope of duty.

IC § 10-4-1-8, Emergency management volunteer liability
No emergency management volunteer complying with or attempting to comply with an order, rule or ordinance is liable for death or injury to persons or damage to property as a result of such activity.

Exceptions: willful misconduct, gross negligence, or bad faith.

IC § 31-15-6-9, Guardian ad litem immunity
A guardian ad litem, court appointed special advocate, or a volunteer for a guardian ad litem or court appointed special advocate program who performs duties in good faith is immune from civil liability that may occur as a result of the person's performance.

Recent Case Law

Lane v. Frankfort County Schools Building Trades Corp., 747 N.E. 2d 1172, 2001
A nonprofit organization was conducting classes at a vocational-technical school. A student was injured during class. The court said the nonprofit was not performing a "uniquely government service" and was therefore ineligible for immunity under the Indiana Tort Claims Act.

Mutka v. Greater Hammond Community Services, 735 N.E. 2d 780, 2000
A nonprofit provided services to the elderly under a contract with a local government. The nonprofit was sued following a bus accident in which a client was injured. The court said the agency could not claim immunity to suit under the Indiana Tort Claims Act because it wasn't a government entity.

Southport Little League v. Vaughan, 734 N.E. 2d 261, 2000
A Little League volunteer was found to have molested several young participants. The court found that the organization had the right to direct and control the conduct of the volunteer and some of the volunteer's acts when interacting with the children benefited the organization. The court wrote that the legal theory of respondeat superior ("let the master answer") was applicable, holding that the Little League could be vicariously liable for the harm caused by the volunteer.

Iowa

Charitable Immunity

Immunity abolished. *Sullivan v. First Presbyterian Church*, 260 Iowa 1373, 152 N.W.2d 628 (1967).

Volunteer Protection Statutes

A director or volunteer for a non-profit is not liable for civil claims, and a director is not liable for the debts of the organization. A volunteer serving a fraternal benefit society is not liable for damages incurred during the performance of duty. A Good Samaritan who renders emergency care is not liable for civil damages. A volunteer on the Governor's Council, and a volunteer for the Rural Water District Board are not liable for acts or omissions. A person who donates food in good faith, and a charitable organization that collects food, is not liable for criminal or civil penalties. A health care provider who offers services at a free clinic has immunity as if they are a state employee.

Iowa Code § 504A.101, Non-profit director, officer, member or volunteer
A director, officer, member or volunteer of a non-profit corporation is not personally liable in that capacity for a claim based upon an act or omission of the person in the performance of their duties.

Exceptions: a breach of loyalty to the non-profit corporation, acts or omissions done not in good faith or done in knowing violation of the law, or a transaction from which a personal benefit is derived.

Iowa Code § 613.19, Non-profit director, officer, trustee or volunteer
A volunteer, director, officer or trustee of a non-profit organization is not liable for debts of the organization or for a claim based on act or omission performed during the course of duty.

Exceptions: intentional misconduct or knowing violation of the law, or a transaction from which the person derives an improper personal benefit.

Iowa Code § 512B.9, Fraternal Benefit Society member, director or official
A volunteer serving without compensation, a member, a director or an official of a fraternal benefit society is not liable, and no cause of action may be brought, for damages resulting from the exercise of judgement or discretion in connection with their duties.

Iowa Code § 613.17, Good Samaritan volunteer
A person who in good faith gives emergency care without compensation is not liable in civil damages for acts or omissions at the scene of the emergency or accident, or while the person is being transported to or from the emergency or accident or to or from an emergency shelter. This includes a workplace emergency.

Exceptions: acts or omissions that constitute recklessness.

If a volunteer firefighter, a volunteer for an ambulance or rescue squad, a volunteer for the ski patrol, a volunteer paramedic, or a volunteer medical technician receives nominal compensation not based on the services they perform, they are considered volunteers under the act.

Exceptions: willful or wanton misconduct.

Iowa Code § 28H.4, Government council liability
Government council volunteers are not liable for an act or omission undertaken in the performance of their duties.

Exceptions: acts or omissions involving intentional misconduct, knowing violation of the law, or a transaction for which a person derives an improper personal benefit.

Iowa Code § 135.24, Volunteer health care provider
A certified health care provider providing free medical services without compensation is considered an employee of the state and is afforded the same protection from liability that an employee enjoys.

Iowa Code § 357A.22
A volunteer serving on the Rural Water District board is not liable for an act or omission undertaken in the performance of duty.

Exceptions: a breach of loyalty to the district, acts or omissions done not in good faith or done in knowing violation of the law, or a transaction from which the volunteer derives an improper personal benefit.

Iowa Code § 497.33, Cooperative association volunteer
A volunteer for a cooperative association is not liable for acts or omissions done in the performance of their duties.

Exceptions: a breach of loyalty to the corporation, acts of omissions done not in good faith or done in knowing violation of the law, or a transaction from which the volunteer derives an improper personal benefit.

Iowa Code § 672.1, Food donation volunteer
A person or entity that donates food to a charity or non-profit organization for free distribution to needy people is not subject to civil or criminal liability arising from the fitness of the food, as long as the donor reasonably inspected the food before donating it and thought to be fit for human consumption.

Exceptions: negligence, recklessness, intentional misconduct, or if the donor knew or reasonably should have known the food was bad.

A charity or non-profit organization that accepts and distributes free food to needy people is not subject to criminal or civil liability arising from the fitness of the food, as long as the organization reasonably inspected the food and thought it to be fit for human consumption.

Exceptions: recklessness, intentional misconduct, or if the organization knew or should have known the food was bad.

Recent Case Law

Hoffert v. Luze, 578 N.W. 2d 681, 1998
A volunteer emergency medical technician was driving an ambulance and hit another car while transporting a woman to the hospital. The court noted that the volunteer ambulance driver was a state employee under Iowa Code § 670.2. Iowa Code § 321. 231 stipulates the responsibilities and privileges of authorized emergency vehicle drivers. The court held that the legal standard of care applicable to an authorized emergency vehicle driver is to drive with due regard for the safety of all persons. The court said that recklessness, not negligence, is the threshold for recovery for violation of the duty. In its finding the court overruled former case law that established a standard of care based on negligence and not recklessness. The court thus held that the ambulance driver was immune under § 670.4(11) because he was not acting recklessly.

Kansas

Charitable Immunity

Immunity abolished. *McAtee v. St. Paul's Mission*, 190 Kan. 518, 376 P.2d 823 (1962).

Volunteer Protection Statutes

A non-profit volunteer is not liable for civil damages if the non-profit has general liability insurance. A homeowner's association volunteer is not liable for civil damages. A court-appointed special advocate is presumed to be acting in good faith and is immune from civil liability. An emergency management volunteer is not liable for civil damages. A volunteer for a juvenile justice non-profit organization is deemed to be a state employee for liability purposes. A Good Samaritan health care provider is not liable for civil damages for emergency care given at the scene of an emergency, emergency care given to a minor during a competitive sports game, or emergency care given within a hospital until the patient's doctor arrives on the scene.

K. S. A. § 60-3601, Non-profit volunteers
If a non-profit organization has general liability insurance, a volunteer of the organization is not liable for damages in a civil action for acts or omissions.

Exceptions: the conduct constitutes willful or wanton misconduct or intentionally tortious conduct, or the volunteer is required by law to be insured or is insured for those acts or omissions. If the volunteer has insurance, they are liable only to the extent of the coverage. If the non-profit organization has general liability insurance, a volunteer is not liable for damages in a civil action for the acts or omissions of officers, directors, trustees, employees or other volunteers.

Exceptions: the volunteer participates in any way in the act or omission and the act or omission constitutes willful or wanton misconduct or intentionally tortious conduct, or the volunteer is required by law to be insured or is insured for the acts or omissions. If the volunteer has insurance, they are only liable to the extent of the coverage.

Nothing in this section is to be construed to affect the liability of a non-profit organization for damages caused by negligent or wrongful acts or omissions of its volunteers. A volunteer's negligent or wrongful act is imputed to the non-profit organization so liability can be apportioned to a third party.

K. S. A. § 60-3611, Homeowner's association volunteers
A volunteer of a homeowners association is not liable for damages in a civil action for acts or omissions.

Exceptions: the conduct constitutes willful or wanton misconduct, or the volunteer is required by law to be insured or is insured for the acts or omissions. If the volunteer has insurance, they are only liable to the extent of the coverage.

A volunteer is a non-profit homeowners association is not liable for damages in a civil action for the actions or omissions of officers, directors, trustees, employees or volunteers of the organizations.

Exceptions: the volunteer participates in any way in the act or omission and it constitutes willful or wanton misconduct or intentionally tortious conduct, or the volunteer is required by law to be insured or is insured against such acts or omissions. If the volunteer has insurance, they are liable only to the extent of the coverage.

Nothing in this section is to be construed to affect the liability of a non-profit homeowner's organization for damages caused by negligent or wrongful acts or omissions of its volunteers. A volunteer's negligent or wrongful act is imputed to the non-profit homeowner's organization so liability can be apportioned to a third party.

K. S. A. § 38-1505a., Court-appointed special advocates
A volunteer court-appointed special advocate is presumed prima facie to be acting in good faith and is immune from civil liability.

K. S. A. § 48-915, Emergency management volunteers
A volunteer engaged in emergency management activities, complying or attempting to comply with the provisions of this act, is not liable for death or injury to persons, or damage to property as result of their duties performed during a state of emergency.

K. S. A. § 75-6103, Government indemnification
A governmental entity is liable for damages caused by the negligent or wrongful acts of its employees while acting within their scope of employment under circumstances where the governmental entity, if a private person, would be liable.

K. S. A. § 75-6102, Government volunteer
"Employee" includes persons acting in service for a governmental entity without compensation and volunteers for a non-profit program that has contracted with the commissioners of juvenile justice.

K. S. A. § 65-2891, Health care Good Samaritan
A health care provider, who in good faith renders emergency care at the scene of an accident, including treatment of a minor without first receiving parental consent, is not liable for civil damages.

Exceptions: gross negligence or willful or wanton acts or omissions. A health care provider who in good faith renders emergency care to a minor as a result of competitive sports and does not receive compensation is not liable for civil damages.

Exceptions: negligence.

A health care provider who in good faith renders emergency care during an emergency which occurs within a hospital or elsewhere, with or without compensation, until the person's doctor assumes responsibility, is not liable for civil damages.

Exception: negligence.

Case Law

Farm Bureau Mutual Insurance Co. v. Harmon, 1998 U.S. Dist. LEXIS 15894
A woman was involved in a car accident in Kansas while volunteering as a driver for the Department of Veteran Affairs. The Court found that under the Federal Tort Claims Act, 28 U.S.C. § 2671, the volunteer driver was acting as an employee of the United States since the definition of "employee" includes unpaid volunteers. Any tort claims against the woman were barred.

Kentucky

Charitable Immunity

Immunity abolished. *Sheppard v. Immanuel Baptist Church*, 353 S.W. 2d 212 (Ky. 1961).

Volunteer Protection Statutes

Directors and volunteers of non-profits are immune from civil liability. Volunteer firefighters are not liable for injury, death or property damage, and are not liable for duty performed outside of Kentucky. A Good Samaritan who uses a defibrillator, and a properly certified health care Good Samaritan are not liable for civil damages. A volunteer for the impaired physical therapy committee is not liable for claim or suit.

KRS § 411.200, Non-profit volunteer
Any person who serves as a director, officer, trustee or volunteer of a non-profit organization and is not compensated for their service is immune from civil liability for an act or omission resulting in damage or injury, if they acted in good faith and within the scope of their duties.

Exceptions: the damage was caused by willful or wanton misconduct.

KRS § 39A.280, Volunteer firefighter
A volunteer emergency management member complying with or attempting to comply with a provision of this act is not liable for death or injury to persons or damage to property resulting from that activity.

Exceptions: willful misconduct, gross negligence, or bad faith.

KRS §75.070, Volunteer firefighter working outside of municipality

A volunteer fire department and its personnel, in answering fire alarms, performing fire prevention services or other emergency services inside or outside the limits of its municipality, are considered an agent of Kentucky and is not liable in damages for an omission or act of commission or negligence in performing its authorized duties.

KRS § 311.668, Defibrillator Good Samaritan Act
Any person who in good faith and without compensation renders emergency care using an automatic external defibrillator is immune from civil liability for any personal injury as a result of the care, or as a result of an act or failure to act in providing or arranging further medical treatment. This applies if the person offering care acted as an ordinary, reasonable prudent person would have done under the same or similar circumstances.

Exceptions: this act does not apply if injury resulted from gross negligence or willful or wanton misconduct of the person offering the care.

KSA § 65-2891, Emergency care by health care providers; liability; standards of care applicable.

(a) Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

KRS § 327.045, Physical therapy committee volunteers
Volunteers for the impaired physical therapy practitioners committee acting within the scope of duty and without actual malice are not liable for a claim or damages as a result of any statement, decision, opinion, investigation or action taken by the committee or an individual member.

Louisiana

Charitable Immunity

Immunity abolished. *Whetstone v. Dixson*, 616 So.2d 764 (1993).

Volunteer Protection Statutes

A volunteer, director, officer or trustee for a non-profit organization is not individually liable for injuries resulting from an exercise of discretion in their duties. A member, director, trustee or officer of a non-profit hospital or organization is not liable for acts or omissions of any officer or employee of the organization. A volunteer firefighter rendering emergency services is not individually liable for civil damages. A court appointed special advocate has immunity from civil or criminal liability. A volunteer for an unorganized state militia has the same immunities as other members of the military. A cause of action cannot be brought against an athletic volunteer providing service for a non-profit. A volunteer for the Council

on Aging is not liable for acts or omissions resulting in damages. A Red Cross volunteer is not liable for damages arising from volunteer services. An approved school volunteer is not liable for acts or omissions arising from official duties. A health care provider who provides volunteer medical services is not liable for damages resulting from care rendered.

La. R.S. 9: 2792.3, Non-profit volunteers
A person who serves as a director, officer, trustee or volunteer worker for a non-profit organization is not individually liable for an act or omission resulting in damage or injury arising out of the exercise of judgment in their duties. This applies if the person was acting in good faith and within the scope of his official duties.

Exceptions: damage or injury caused by willful or wanton misconduct.

La. R.S. 9:2792 Non-profit organization or hospital member
A person serving without compensation as a member, director, trustee or officer of any public, charitable or nonprofit hospital or organization is not individually liable to a person, firm or private or public entity receiving benefit from the non-profit for any act or omission to act by an employee or other officer of the public, charitable or non-profit hospital, institution or organization.

La. R.S. 37: 1735, Volunteer firefighter
A volunteer fireman who renders emergency services while in the performance of his duties at the scene of an emergency is not individually liable for civil damages as a result of acts or omissions resulting from his services.

Exceptions: acts or omissions designed to harm, or grossly negligently acts or omissions that result in harm to person or property.

La. Ch. C. Art. 424.10, Court appointed special advocate volunteers
No cause of action will exist against a court appointed special advocate volunteer who in good faith makes a report, cooperates in an investigation, or participates in judicial proceedings. The volunteer has immunity from civil or criminal liability.

Exceptions: liability does not extend to:
a. an alleged principal, conspirator, or accessory involving abuse, neglect or sexual exploitation of a child,
b. a person who makes a knowingly false report with reckless disregard to the truth, or
c. the unauthorized diverging of confidential information resulting from the volunteer's gross fault or gross neglect.

La. R.S. 29:5, Unorganized militia volunteers
Members of the unorganized militia who volunteer and are called into active service of the state have the same rights, duties, privileges and immunities as other military forces in the state.

La. R.S. 9:2798, Volunteer athletic coach
No person shall have a cause of action against any volunteer athletic coach, manager, athletic trainer, team volunteer health care provider, or sports team official for loss or damage caused by an act or omission relating to the volunteer's responsibilities while participating in the sporting activity or in the practice of the activity.

Exceptions: gross negligence of the volunteer.

La. R.S. 9:2792.9, Council on Aging volunteer
A volunteer who in good faith and within the scope of official duty performs services for an area agency on aging or a parish voluntary council on aging is not liable for injury, loss or damage as a result of an act or omission in rendering services.

Exceptions: injury, loss or damage was caused by willful or wanton misconduct, or the volunteer's gross negligence.

A person can sue and recover damages from a volunteer for negligent acts or omissions involving the operation of a motor vehicle, but the amount recovered cannot exceed the amount of insurance the volunteer maintains.

La. R.S. 9:2793.2, Red Cross volunteer
No person who in good faith and without compensation renders emergency services as a Red Cross volunteer is liable for civil damages as a result of an act or omission in rendering care or as a result of an act or failure to act in providing or arranging for further services.

Exceptions: the limitation on liability does not exist if:
a. the emergency service was inconsistent with American Red Cross training,
b. the emergency service provided was not supervised by a qualified Red Cross employee or agent, or
c. the damage was caused by an intentional act or omission, gross negligence, or willful or wanton misconduct by the volunteer.

La. R.S. 9:2798.2, School volunteer
An approved school volunteer in an elementary or secondary school is not personally liable for any loss or damage caused by an act or omission directly related to their volunteer responsibilities.
Exceptions: the loss or damage was caused by gross negligence or willful or wanton acts of the volunteer.

La. R.S. 9:2799.5, Community health volunteer
A health care provider who in good faith and without compensation renders heath care in a community health clinic is liable for civil damages as a result of an act or omission in rendering the services or as a result of an act or failure to act in providing or arranging for further services.

Exceptions: damages caused by gross negligence or willful or wanton misconduct of the volunteers.

The limitation on liability applies only the person receiving health services was notified of the limitation on liability by the community health clinic.

Case Law

Kyser v. Metro Ambulance, Inc., 764 So. 2d 215, 2000
A man sued a private EMT company for failing to force him to go the hospital after suffering a brain aneurysm. The court found that the EMTs were immune pursuant to La. R. S. 40:1233. They did not exhibit carelessness and their actions did not rise to gross negligence. Therefore, the ambulance company could not be found liable for damages suffered as a result of the employee's actions or inaction.

Matlock v. Hankel, 707 So. 2d 1016, 1998
A woman who was hit by a volunteer fireman while he was arriving on the scene of a fire sued the volunteer, the fire department and the city. She settled with the firefighter. The court found that the volunteer fire department was not entitled to immunity under La. R. S. 37:1735 or La. R.S. 9:2793 because the statutes were intended to immunize an individual, not a fire department. The court found the city could not claim immunity under La. R.S. 9:2793.1 because that statute limits the liability of public entities with respect to property damage, not personal injury.

Maine

Charitable Immunity

Common law immunity applies only if an organization derives its funds mainly from public and private charity. *Thompson v. Mercy Hosp.*, 483 A.2d 706 (Me. 1984). If an organization has insurance, recovery is limited to the extent of coverage. Me. Rev. Stat. Ann. tit. § 158 (West).

Volunteer Protection Statutes

A director, officer or volunteer for a charitable organization is immune from civil liability for injury, death or damage. Directors, officers and volunteers are immune from civil liability for another's act or omission at the charitable organization. A charitable organization is not liable for claims arising from a juvenile work program. A Good Samaritan who renders emergency aid is not liable for civil damages. A person volunteering for a mass immunization project is not liable for damages caused to an immunized person. A special advocate volunteer and a volunteer fire fighter are not civilly liable for official duties.

7 M.R.S. § 158-A, Non-profit volunteer immunity
A director, officer or volunteer for a charitable organization is immune from civil liability for personal injury, death or property damage including monetary loss. This applies when the cause of action involves a negligent act or omission and occurs within the scope of activity of the charitable organization.

Directors, officers and volunteers are also immune from civil liability for an act or omission that was not committed by them but occurred within the scope of activity of the charitable organization.

Exceptions: a director, officer or volunteer is considered to have waived immunity if the cause of action arises out of operation of a motor vehicle, vessel, aircraft or any vehicle that requires a license and insurance. The extent of damages will not exceed the extent of insurance coverage.

7 M.R.S. § 158-B, Charitable immunity for juvenile community service work
A charitable organization is not liable for a claim arising from death or injury to a person or damage to property caused by a juvenile participating in a supervised work program, performing community service or providing restitution under 15 M.R.S. § 3301.

14 M.R.S. § 164, Good Samaritan Law
A person who voluntarily and without expectation of compensation renders first aid, emergency or rescue assistance to an unconscious, ill or injured person is not liable for damages for injuries or death alleged to have come from an act or omission of the volunteer.

Exception: the injury or death was caused willfully, wantonly or recklessly or by gross negligence by the volunteer.

This section applies to members or employees of non-profit volunteer or governmental ambulance, rescue or emergency units whether or not the user fee is charged by the non-profit or government entity, or whether or not the member or employee receives compensation or salary for the non-profit or government entity.

Nothing in this section shall be construed to require a person who is ill or injured to be administered aid if they object on religious grounds.

22 M.R.S. § 1063, Public immunization volunteers
No person who works as a volunteer in a public immunization program without compensation is liable for damages, injuries or death alleged to have been sustained by a person immunized under the program.

Exceptions: the volunteer caused the injuries or death willfully, wantonly, recklessly or by gross negligence.

4 M.R.S. § 1506, Special Advocate immunity
A person serving as a regional volunteer coordinator of the Court Appointed Special Advocate Program is immune from civil liability under14 M.R.S. § 741 for acts performed within the scope of duty.

14 M.R.S. §811, Government employee immunity
Employees of governmental entities are absolutely immune from personal civil liability for performing or failing to perform functions or duties or for intentional acts or omissions within the scope of employment.

Exceptions: employee's actions are found to have been in bad faith.

14 M.R.S. § 8102, Definitions
"Employee," as used above, includes volunteer firefighters. "Emergency medical services" includes a non-profit, incorporated ambulance service receiving full or partial support from or officially recognized by a government entity, except when the emergency service is acting outside the scope of activities authorized by 30 M.R.S. § 203 or 204-A.

Case Law

Kennedy v. State, 1999 ME 85, 1999
A volunteer guardian ad litem, acting on behalf of a child in a divorce proceeding, was held to be a state employee under the Maine Torts Claim Act, 14 M.R.S. § 8101. The court found that she was acting as an officer of the court. Accordingly, she was entitled to a defense by the state of Maine when she was sued for actions arising out of her volunteer duties.

Bernard v. McKinnis, 699 A. 2d 1148, 1997
The court found that a volunteer EMS organization was entitled to immunity under the Maine Tort Claims Act, 14 M.R.S. §§ 8101-8118. The court found that the organization was an "agent" of the government thereby triggering the availability of immunity. The court also found that the organization was not a governmental entity and therefore did not waive its immunity simply because the government was insured.

Maryland

Charitable Immunity

Common law immunity from tort liability is premised on the trust fund theory, that is, because funds of the organization are impressed with a trust for charitable purposes, those funds should not be diverted to pay tort damage awards. *James v. Prince George's County*, 288 Md. 315, 418 A. 2d 1173 (1980); *Wood v. Abell*, 268 Md. 214, 300 A.2d 665 (1973). If an organization carries insurance, recovery is limited to the policy limits. *Eliason v. Funk*, 233 Md. 351, 196 A.2d 887 (1964).

Volunteer Protection Statutes

Under the Maryland Volunteer Service Act, a volunteer, which includes officers, trustees, or any person who provides service, for an organization or association is not liable for personal actions or the actions of others at the organization beyond the limit of personal insurance available. A volunteer for the Board of Education is not liable for official acts beyond the limits of personal insurance available. Certified persons who act as Good Samaritans are not liable for emergency aid provided to a person in need. A health care provider who provides voluntary services to a charitable organization, and a physician who provides voluntary services to an athletic organization, are not liable for acts or omissions in rendering the service. A Community Recreation volunteer is not liable in the performance of volunteer duties. A volunteer for the Insect Sting Emergency Treatment program is not liable for emergency aid given to a person suffering from an insect bite. A volunteer, member, officer or director of a fraternal benefit society is not liable for acts or omissions in the exercise of official discretion. An insurance company who provides liability insurance for a private fire department must offer to provide insurance to a volunteer fire department and rescue squad.

Md. Code Ann. § 5-407, Volunteer Service Act
A volunteer is an officer, director, trustee or other person who provides services or performs duties for an association or organization without receiving compensation.

A volunteer is not liable in damages beyond the limits of any personal insurance the volunteer may have in a suit that arises from an act or omission of an officer, director, employee, trustee or other volunteer of the organization for which the volunteer performs services.

Exceptions: the volunteer knew or should have known of the act or omission or actively participated in it; or with full knowledge of the situation the volunteer ratified an act or omission of an officer, director, employee, trustee or other volunteer.

A volunteer is not liable in damages beyond the limits of any personal insurance held by the volunteer that arises from the volunteer's act or omission in connection with services performed on behalf of the organization.

Exception: the volunteer's act or omission constitutes gross negligence, reckless, willful, or wanton misconduct, or intentional tortious conduct.

Md. Code Ann. § 5-518, Board of education volunteer
A volunteer for the board of education who acts within the scope of duty is not personally liable for damages resulting from a tortious act or omission beyond the limits of personal insurance the volunteer may hold.

Exceptions: the damages were a result of the volunteer's negligent operation of a motor vehicle, or of the volunteer's willful, wanton, malicious, reckless or grossly negligent act or omission.

Md. Code Ann. § 5-603, Good Samaritan
The following individuals are not civilly liable for any act or omission in giving assistance or medical care if the act or omission is not one of gross negligence, the assistance or care is provided without fee or compensation, and the assistance or care is provided at the scene of an emergency, in transit to a medical facility, or through communications with personnel providing emergency assistance: an individual licensed to provide medical care; a member of a state, county, municipal, or volunteer fire department, ambulance and rescue squad, a law enforcement agency, the National Ski Patrol, or a corporate fire department, or an individual who has completed an American Red Cross course in advanced first aid or the equivalent and has a current card, or is certified as an emergency medical services provider.

Md. Code Ann. § 5-606, Health care provider volunteer
A volunteer who is a health care provider or who renders health care services voluntarily and without compensation through a charitable organization is not liable, beyond the limits of any insurance coverage held, in any suit for civil damages for an act or omission resulting from the services rendered.

Exceptions: willful or wanton misconduct, gross negligence, or intentionally tortious conduct.

A volunteer who is a health care provider or who renders health care services voluntarily and without compensation through a charitable organization that is chartered to provide health care services to homeless or indigent individuals is not liable, beyond the limits of any insurance coverage held, in any suit for civil damages for an act or omission resulting from the services rendered.

Exceptions: willful or wanton misconduct, gross negligence, or intentionally tortious conduct.

Md. Code Ann. § 5-607, Sports program volunteer physician
A physician who voluntarily and without compensation provides services for a sports program is not liable for damages for an act or omission resulting from those services.

Exceptions: willful or wanton misconduct, gross negligence, or intentionally tortious conduct.

Md. Code Ann § 5-80, Community Recreation Volunteers
A volunteer is not personally liable for damages in a civil action for acts or omissions resulting from the performance of duties for a community recreation program.

Exceptions: the volunteer is personally liable for damages if it is found that the damages were a result of negligent operation of a motor vehicle, a result of the volunteer's willful, wanton or grossly negligent act or omission, or the result of the volunteer's negligence in permitting unsupervised activity.

Md. Code Ann. § 13-708, Insect Sting Treatment Volunteers
A cause of action may not rise a against a certificate holder of the Insect Sting Emergency Treatment program for an act or omission in rendering emergency treatment to a person suffering or believed to be suffering from adverse reactions of an insect bite.

Exceptions: the conduct of the certificate holder amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct.

Md. Code Ann. 8-420, *Liability for Fraternal Benefit Societies*
No director, officer, employee, member or volunteer of a fraternal benefit society who serves without compensation is liable for damages resulting from an exercise of judgement or discretion in connections with duties for the society.

Exceptions: the act or omission involved willful or wanton misconduct.

Md. Code Ann. § 19-105, Volunteer firefighter insurance
An insurer that provides general liability insurance coverage to a fire department or company, or a rescue department or company shall offer to provide coverage for a volunteer firefighter or volunteer rescue squad member who provides assistance in response to an emergency, or to any other individual who provides assistance in response to an emergency and at the request and under direction of a fire company or department, or a rescue department or company.

Case Law

Mayor and City Council Of Baltimore v. Chase, 756 A. 2d 987, 2000
A paramedic was sued for allegedly inserting a tube in a man's esophagus instead of his trachea, and causing death. The court held that the paramedic was entitled to immunity, because §5-604 applied to municipal fire and rescue departments and employees, as well as to volunteer fire and rescue departments. The court said that looking at the statute's plain language and legislative intent, it was clear the statute was intended to grant immunity to fire and rescue companies, be they municipal or volunteer.

Massachusetts

Tort Cap vs. Charitable Immunity

The Massachusetts legislature has chosen to limit the liability of nonprofit organizations through a cap on tort damages. Unlike states such as Virginia or New Jersey, where charitable immunity is available as a defense to claims alleging negligence on the part of a nonprofit, in Massachusetts a cap on tort damages of $20,000 may apply if the tort meets the requirements of *Mass. Gen. Laws Ann. ch. 231, § 85K*. That statute provides:

"It shall not constitute a defense to any cause of action based on tort brought against a corporation, trustees of a trust, or members of an association that said corporation, trust, or association is or at the time the cause of action arose was a charity; provided, that if the tort was committed in the course of any activity carried on to accomplish directly the charitable purposes of such corporation, trust, or association, liability in any such cause of action shall not exceed the sum of twenty thousand dollars exclusive of interest and costs."

The limitation does not apply "if the tort was committed in the course of activities primarily commercial in character even though carried on to obtain revenue to be used for charitable purposes."

Interestingly, the charitable immunity doctrine was adopted by the Massachusetts Supreme Judicial Court in 1876, specifically in reference to a hospital. In that decision, "[t]he court reasoned that the hospital held its funds in trust for the benefit of the public, and that it would be an unlawful diversion of those funds to apply them to the satisfaction of a judgment based on the negligence of hospital agents." *English v. New England Medical Center*, 405 Mass. 423, 425, 541 N.E.2d 329 (1989), cert.denied, 493 U.S. 1056, 110 S.Ct. 866, 107 L.Ed.2d 949 (1990).

The early decision of the Court is still good law, and Massachusetts courts have upheld this ruling in numerous hospital cases over the years. In one recent hospital case the Court wrote,

> The objective of § 85K clearly is to protect the funds of charitable institutions so they may be devoted to charitable purposes ... If a charity's property were "depleted by the payment of damages its usefulness might be either impaired or wholly destroyed, the object of its founder or donors defeated, and charitable gifts discouraged." Id. at 429, 541 N.E.2d 329.

<u>Volunteer Protection Statutes</u>

A director, officer, or trustee for a non-profit charitable organization, such as a charitable education institute, is not liable for civil damages. A volunteer ombudsman, and a volunteer serving as an elder care coordinator or counselor, are not liable in a civil or criminal action. A physician, physician's assistant, registered nurse, respiratory therapist or veterinarian acting as a Good Samaritan is not liable in a suit for damages arising out of the rendering of emergency care. An athletic volunteer serving a non-profit organization is not liable for damages resulting from service.

Mass. Ann. 231 § 85K, Limitation of tort liability of certain charitable organizations; liability of directors, officers or trustees of educational institutions

It shall not constitute a defense to any cause of action based on tort brought against a corporation, trustees of a trust, or members of an association that said corporation, trust, or association is or at the time the cause of action arose was a charity; provided, that if the tort was committed in the course of any activity carried on to accomplish directly the charitable

purposes of such corporation, trust, or association, liability in any such cause of action shall not exceed the sum of twenty thousand dollars exclusive of interest and costs.

Exceptions: Notwithstanding any other provision of this section, the liability of charitable corporations, the trustees of charitable trusts, and the members of charitable associations shall not be subject to the limitations set forth in this section if the tort was committed in the course of activities primarily commercial in character even though carried on to obtain revenue to be used for charitable purposes.

No person who serves as a director, officer or trustee of an educational institution which is, or at the time the cause of action arose was, a charitable organization, qualified as a tax-exempt organization under 26 USC 501(c)(3) and who is not compensated for such services, except for reimbursement of out of pocket expenses, shall be liable solely by reason of such services as a director, officer or trustee for any act or omission resulting in damage or injury to another, if such person was acting in good faith and within the scope of his official functions and duties, unless such damage or injury was caused by willful or wanton misconduct.

Exception: The limitations on liability provided by this section shall not apply to any cause or action arising out of said person's operation of a motor vehicle.

Mass. Ann. 231 § 85K, Charitable education institute
A person who serves in good faith and without compensation, other than reimbursement for expenses incurred, as a director, officer, or trustee of a charitable educational institution is not liable for any act or omission resulting in damage or injury to another.

Exceptions: the damage or injury was caused by willful or wanton misconduct.

Mass. Ann. 19A § 33A, Volunteer ombudsman
A volunteer ombudsman is not liable in any civil or criminal action for good faith performance of his duties.

Mass. Ann. 19A § 38, Volunteer elder care
A volunteer elder care counselor or coordinator is not liable in any civil or criminal action for good faith performance of duties.

Mass. Ann. 112 § 12B, Medical Good Samaritan
A duly registered physician, physician assistant or nurse who in good faith and without fee voluntarily renders good faith emergency care, other than in the ordinary course of duty, is not liable in a suit for damages as a result of acts or omissions. The volunteer is also not liable to a hospital for expenses incurred if the volunteer causes a person to be hospitalized.

Mass. Ann. 112§ 23B, *Respiratory therapist volunteer*
A duly registered respiratory therapist, who in good faith and without fee voluntarily renders emergency care other in the ordinary scope of practice, is not liable in a suit for damages

resulting from acts or omissions. The volunteer is also not liable to a hospital for expenses incurred of the volunteer causes the person to be hospitalized.

Mass. Ann. 112 § 58A, Veterinarian volunteer
A duly registered veterinarian, who in good faith and without fee voluntarily renders emergency care other in the ordinary scope of practice, is not liable in a suit for damages resulting from acts or omissions. The volunteer is also not liable to a hospital for expenses incurred of the volunteer causes the animal to be hospitalized.

Mass. Ann. 231 § 85V, Athletic volunteer
A person who, without compensation, volunteers as a manager, coach, umpire or assistant in a sports program of a non-profit association, or who renders services to a sailing program of a non-profit association, or the officer, director, trustee or member of the organization, is not liable to any person for any action in tort resulting from acts or failure to act in the scope of conducting the sports programs.

Exceptions: acts or failures to act that are intentionally designed to harm, or gross negligence that results in harm to a person.

Case Law

Goodwin v. *Youth Sports Association Purchasing Group*, 2001 Mass. Super. LEXIS 67
A group of volunteer coaches were playing in an annual coaches' game. A man claimed he was injured in the game as a result of another coach's negligence, and sued the nonprofit sponsor. The court found that the exclusionary language of the volunteer sports statute, 231 § 85V, reflects a legislative intent that not all activities of a non-profit sports organization serving the needs of children will render it immune. The organization was not immune for injuries that may have resulted due to its negligence during a coaches' game where children did not participate. The court also found that the sporting organization did not owe the injured man a duty of care, and so the organization was not liable for his injuries.

Michigan

Charitable Immunity

Immunity abolished. *Parker v. Port Huron Hosp.*, 361 Mich. 1, 105 N.W.2d 1 (1960)

Volunteer Protection Statutes

A volunteer acting on behalf of a governmental agency is immune from tort liability. A volunteer conservation officer, a state park volunteer, and a state forest volunteer enjoy the same immunity as government employees. A volunteer guardian ad litem is immune from liability for official duties. A volunteer assisting in a hazardous material spill or a declared emergency is not liable for performance of official duties. A volunteer for a public school

and a strict discipline academy also enjoy governmental immunity. A physician, registered nurse or practical nurse, or a member of the Ski Patrol who act as Good Samaritans are not liable for emergency care rendered. A block parent volunteer who provides emergency assistance to a minor is not liable for civil damages.

MCLS § 3.996 (107), Government Agency volunteer
A volunteer acting on behalf of a governmental agency is immune from tort liability for an injury to a person or damage to property caused by the volunteer. This applies if the volunteer acts or reasonably believes they are acting within the scope of official authority, and the governmental agency is engaged in the exercise of official government function.

Exceptions: the conduct amounts to gross negligence that is the proximate cause of the injury or damage.

MCLS § 324.1607, Volunteer conservation officer
A volunteer conservation officer has the same immunity from civil liability as a conservation officer.

MCLS § 324.74105, State park volunteer
A volunteer for the state parks department has the same immunity from civil liability as a department employee.

MCLS § 324.83105, State forest volunteer
A volunteer for the state forest department has the same liability as a department employee.

MCLS § 324.20302, Volunteer assisting in a hazardous spill cleanup
A volunteer who assists in a spill of hazardous materials following a declaration of disaster by the governor is not liable in civil action for damage resulting from an act or omission arising from good faith performance of duties.

MCLS § 691.1407, Guardian ad litem volunteer
A guardian ad litem is immune from civil liability for an injury to a person or damage to property if acting in the scope of official authority as a guardian ad litem.

MCLS § 4.824 (21), Volunteer disaster worker
A volunteer disaster relief worker is not civilly liable for damages resulting from an act or omission arising from good faith rendering of volunteer services.

Exceptions: the act or omission was the result of gross negligence or willful misconduct.

MCLS § 380.503, Public school volunteers
A volunteer for a public school academy has governmental immunity as provided in MLCS § 691.1407.

MLCS § 380.1311e, Strict discipline academy volunteer
A volunteer for a strict discipline academy has governmental immunity as provided in MLCS § 691.1407.

MCLS § 691.1501, Medical Good Samaritan
A physician, registered nurse, or licensed practical nurse who in good faith renders emergency care at the scene of an emergency, where a doctor-patient relationship did not previously exist before the emergency, is not liable for civil damages as a result of acts or omissions in rendering the care.

Exceptions: acts or omissions amounting to gross negligence or willful or wanton misconduct.

MCLS § 691.1502, Block parent volunteer
A block parent volunteer who in good faith and while volunteering renders assistance to a minor during an emergency is not liable for civil damages resulting from an act or omission in the rendering of care.

Exceptions: act or omission amounting to gross negligence or willful and wanton misconduct.

MCLS § 691.1507, Ski-patrol volunteer
A member of the national ski patrol system who in good faith renders emergency care while acting as a ski patrol volunteer is not liable for civil damages a result of acts or omissions by the person rendering care.

Exceptions: act or omission amounting to gross negligence or willful and wanton misconduct.

Recent Case Law

Alex v. Wilfong, 549 N.W. 2d 469, 1999
A volunteer firefighter was driving his personal vehicle when he responded to a call. He collided with another car and caused injuries and one death. The court found that the plain language of the governmental immunity statute, MCLS § 691.1407, makes it clear that while governmental agencies are liable as owners for ordinary negligence, governmental employees are not liable for ordinary negligence in the operation of their own vehicles. The volunteer firefighter was immune unless his conduct was grossly negligent. Since no evidence of gross negligence was found, the volunteer firefighter was entitled to immunity.

Minnesota

Charitable Immunity

Immunity abolished. *Geiger v. Simpson Methodist Episcopal Church*, 174 Minn. 389, 219 N.W. 463 (1928).

Volunteer Protection Statutes

A director, officer, trustee, agent or member of a non-profit organization, and an uncompensated fire chief of a non-profit firefighting corporation or a municipal volunteer fire department are not civilly liable for good faith acts or omissions. A Good Samaritan who renders emergency care at the scene of an emergency is not liable for civil damages. An athletic volunteer is not liable for money damages to a player, participant or spectator resulting from acts or omissions of the volunteer. An ombudsman and staff, including volunteers, are immune from civil liability for official acts. A non-profit organization or person who donates livestock services is not liable for damages resulting from the donation.

Statutes

Minn. Stat. § 317A.257, *Unpaid non-profit directors*
The following people are not civilly liable for an act or omission if it was in good faith and within the scope of their official responsibilities:

- a person who serves without compensation as a director, officer, trustee, agent or member of a non-profit organization,
- a person who serves without compensation as a fire chief of a non-profit fire fighting corporation or a municipal volunteer fire department.

Exceptions: an act or omission that constituted willful or reckless misconduct.

Minn. Stat. § 604A.01, Good Samaritan Law
A person who, in good faith and without compensation, renders emergency care at the scene of an emergency or in transit to or from is not liable for civil damages resulting from acts or omissions in rendering the care.

Exceptions: the person acts in a willful and wanton or reckless manner in providing the care.

Minn. Stat. § 604A.11, *Athletic volunteers*
The following people or entities are not civilly liable for money damages to a player, participant or spectator as a result of individual acts or omissions in rendering service at an event, or while an injured person is being transported to a medical facility:

- a person who volunteers as an athletic coach, manager, official, physician or certified athletic trainer for a non-profit sports team, or for a sports team sponsored by a public or private educational institution;
- a community-based, non-profit athletic association or a volunteer for a community-based, non-profit athletic association.

Exceptions: no liability relief if an insurance policy covers the coach, manager, official, physician, or athletic trainer for liability; if the individual acts in a willful and wanton or reckless manner in providing service; or the acts or omissions arise out of operation of a motor vehicle.

Minn. Stat. § 256.9742, Ombudsman volunteer
An ombudsman and staff, including volunteers, are immune from civil liability if the acts or omissions were in good faith and within the scope of responsibility.

Exceptions: Acts or omissions do constitute willful or reckless misconduct.

Minn. Stat. § 604A.12, Livestock activities
A non-profit organization or a person or entity donating services, livestock or the use of equipment for the use of a non-profit organization is not liable for the death or injury to a participant resulting from inherent risks of livestock activities.

Exceptions: the act or omission was willful or negligent, the person providing livestock failed to take reasonable precautions, the person knew or should have known that the livestock or equipment was dangerous, or the person owns or leases the land where injury happened and failed to use reasonable care.

Recent Case Law

Rehn v. Fischley, 557 N.W. 2d 328, 1997
An unpaid director at the Humane Society directed the use of a chemical to clean cages that caused injury to a worker. The court found that § 317A.257, immunity for a non-profit volunteer is a statutory defense, and cannot be waived by failing to mention it in responsive pleadings. Immunity is provided by the statute to those who, by their status as uncompensated persons, qualify for its protection from facing suit. The broad wording protects all uncompensated persons acting on behalf of the non-profit, not just those acting within the specific scope of their job description. Thus, a director acting outside the scope of his duty as a board member, as the director in this case did, is protected from liability as long as he was acting on behalf of the non-profit.

Mississippi

Charitable Immunity

Immunity not recognized. *Mississippi Baptist Hosp. v. Holmes*, 214 Miss. 906, 56 So.2d 142 (1952).

Volunteer Protection Statutes

Miss. Code Ann. § 95-9-1, Volunteer protection

A qualified volunteer is not vicariously liable for the negligence of another in connection with volunteer activities.

A qualified volunteer who renders assistance is not liable for civil damages for any personal injury or property damage caused as result of an act or omission done in good faith.

Exceptions: if the volunteer engages in acts or omissions that are intentional, willful wanton, reckless or grossly negligent, or where the volunteer negligently operates a motor vehicle.

Miss. Code Ann. § 73-25-38, Medical personnel volunteers
A licensed physician or certified nurse practitioner who voluntarily provides needed medical or health services without compensation, due to the inability of the person being helped to pay, is immune from liability for any civil action arising out of the provision of service provided in good faith and on a charitable basis. Immunity is only extended if a waiver is signed by the patient specifying that services are being provided without compensation.

Any physician who voluntarily renders medical service under a special volunteer's license and without compensation is immune from liability for any civil action arising out of the provision of service provided in good faith and on a charitable basis. Immunity is only extended if an oral agreement is reached that the physician is offering uncompensated medical services.

Missouri

Charitable Immunity

Immunity abolished. *Garnier v. St. Andrew Presbyterian Church of St. Louis*, 446 S.W.2d 607 (Mo. 1969).

Volunteer Protection Statutes

A volunteer for a non-profit organization or governmental entity is immune from personal liability for an act or omission resulting in damage. A public school volunteer is not civilly liable when acting in conformity with discipline rules. Conservation volunteers and Department of Corrections volunteers have the protection of the legal defense fund and liability provisions. A person who provides assistance in the event of a hazardous material release is not liable in a civil action. A Department of Social Services volunteer is not liable for good faith performance of duties. Architects, engineers, construction contractors and equipment dealers who provide uncompensated professional help in the event of an emergency are not civilly liable in damages.

§ 537.118.1 R.S.Mo., Volunteer protection
A volunteer of a non-profit organization or governmental entity is immune from personal liability for any act or omission resulting in damage or injury to the person intended to

receive the benefit of service. This applies if the volunteer acted in good faith and within the official scope of his duties.

Exceptions: damage or injury caused by intentional or malicious conduct or by the volunteer's negligence.

§ 160.261 R.S.Mo., Public school volunteers
Public school volunteers are not civilly liable when acting in conformity with the school's established discipline policy.

§ 252.245 R.S.Mo., Conservation volunteers
Conservation volunteers functioning within the scope of authority are considered unpaid volunteers and are accorded the protection of the legal defense fund and liability provisions.

§ 217.055 R.S.Mo., Department of Corrections volunteer
A volunteer for the Department of Corrections is considered an unpaid employee and is accorded the protection of workers' compensation, the legal defense fund and liability provisions.

§ *260.545 R.S.Mo., Assistance to a political subdivision*
Any person who provides assistance at the request of the Department of Conservation, a political subdivision or a volunteer fire protection district in the event of a release of a hazardous substance is not liable in any civil action for damages for acts or omissions in rendering assistance.

Exceptions: The volunteer is not relieved from civil damages if they had control of the spilled hazardous substance, if they received payment for their assistance, or for acts or omissions that resulted from intentional wrongdoing or gross negligence.

§ 660.608 R.S.Mo., Department of Social Services volunteer
A volunteer regional coordinator or local program staff for the Department of Social Services is not liable for good faith performance of official duties and will not be immune from suit for the good faith performance of duties.

§ 44.023 R.S.Mo., *Emergency volunteer workers*
Architects, professional engineers, construction contractors, and equipment dealers working under the emergency volunteer program are not personally liable for any act committed in the performance of official duties as volunteers.

Any individual, partnership or corporation working under the emergency volunteer program is not liable for acts committed in the performance of their duties as volunteers.

Exceptions: willful misconduct or gross negligence.

Montana

Charitable Immunity

Immunity not recognized. *Davis v. The Church of Jesus Christ of Latter Day Saints*, 258 Mont. 286, 852 P.2d 640 (1993).

Volunteer Protection Statutes

An officer, director or volunteer of a non-profit is not individually liable for an act or omission. A non-profit sponsoring a rodeo is not liable for injuries. A disaster volunteer and an emergency services volunteer are not liable for civilian defense activities, and have the same immunity when working outside of the state. Various Good Samaritans are not liable for civil damages when they provide emergency care to someone. A medical practitioner or dental hygienist who provides free healthcare service is not liable for civil damages. A person who donates food in good faith, and a charitable organization who distributes food free of charge is not liable for injuries resulting from the food. A person who serves on the citizen review board is immune from suit.

Mont. Code Ann. § 27-1-732, Non-profit volunteer
An officer, director, or volunteer of a non-profit corporation is not individually liable for any act or omission made in the scope of duty on behalf of the organization.

Exceptions: willful or wanton misconduct.

Mont. Code Ann. § 27-1-733, Non-profit rodeo events
No non-profit organization sponsoring a rodeo event is liable for injuries suffered by a contestant as result of his voluntary participation.

Exceptions: Injuries caused by willful or wanton act of sponsoring organization or employee.

Mont. Code Ann. §10-3-11, Disaster and emergency services volunteer
A volunteer disaster and emergency services volunteer engaged in civilian defense activity during an emergency is not liable for death or injury to persons or damage to property.

Mont. Code Ann. § 10-3-207, Inter-state disaster and emergency services volunteer
Disaster and emergency services volunteers have all privileges and immunities from liability when performing volunteer work outside the state as they do in their own state.

Mont. Code Ann. § 27-1-714, Good Samaritan Law
Any physician, surgeon, or volunteer firefighter or officer of a volunteer non-profit fire company who in good faith renders emergency care without compensation at the scene of an accident or emergency is not liable for civil damages for acts or omissions.

Exceptions: damages brought on by gross negligence, or willful or wanton acts or omissions of the volunteer.

Mont. Code Ann. § 27-1-736, Medical practitioner or dental hygienist services
A medical practitioner or dental hygienist who voluntarily renders care without compensation to a patient of a clinic is not liable to a person for civil damages resulting from the care provided.

Exceptions: damages were the result of gross negligence or willful or wanton acts or omissions of the volunteer.

Mont. Code Ann. §m 27-1-716, Food donor
A good faith donor of food, who donated for free distribution, is not subject to criminal or civil penalty arising from the condition of the food.

A charitable or non-profit organization that receives and distributes food free of charge is not subject to criminal or civil damages resulting from the condition of the food.

Exceptions: injury caused by gross negligence or intentional misconduct.

Mont. Code Ann. § 41-3-1010, Local citizen review board
A person who serves on a local citizen review board is considered an agent of the judiciary and entitled to immunity from suit as provided in § 2-9-112.

Nebraska

Charitable Immunity

Immunity abolished. *Meyers v. Drozda*, 180 Neb. 183, 141 N.W.2d 852 (1966).

Volunteer Protection Statutes

A director, officer and trustee of a non-profit organization are immune from civil damages. A member of a volunteer fire department, rescue squad or emergency squad is liable in a civil action for emergency aid rendered. A court appointed special advocate is immune from civil liability. A volunteer assisting with a hazardous material spill is not liable to civil penalty.

R.R.S. Neb. § 25-21-191, Non-profit directors
A director, officer, or trustee of a non-profit organization who is not compensated for services is immune from civil liability for an act or omission that results in damage or injury if they acted within the scope of duty.

Exceptions: damage or injury was caused by willful or wanton acts or omissions.

R.R.S. Neb. § 35-107, Volunteer first aid and fire department
No member of a volunteer fire department, rescue squad or emergency squad which provides emergency aid and rescue services is liable in any civil action to respond to damages as a result of rendering services in good faith.

Exceptions: immunity from liability shall not extend to the operation of a motor vehicle, or a person causing damage by willful or wanton acts of omission or commission.

R.R.S. § 43-3716, Special advocate volunteer
A court appointed special advocate is immune from civil liability to the full extent provided in the federal Volunteer Protection Act.

R.R.S. § 81-1568, Hazardous material volunteer
A volunteer who provides assistance in an attempt to mitigate the effects of a hazardous material accident is not subject to civil liability or penalty.

Exceptions: the person whose act caused the hazardous material discharge is liable in negligence for the volunteer or any person.

Recent Case Law

Hatcher v. Bellevue Vol. Fire Dept., 628 N.W. 2d 685, 2001
A doctor worked as a medical director for the city volunteer fire department as well as at a local hospital. She was fired as medical director and subsequently fired by the hospital. She sued the volunteer fire department, claiming tortious interference with business relationships. The court said that the individual firefighters have immunity under the Political Subdivisions Torts Claims Act. The nominal fee they are paid does not affect their voluntary status.

The court held that during the acts and meetings that the fired worker claimed interfered with her business relationships, the individuals were acting in their capacity as voluntary fire fighters. Under the doctrine of respondeat superior, the principal's liability is derived from that of his agent. Therefore, vicarious liability of the fire department is barred because the individual fire fighters have immunity.

Nevada

Charitable Immunity

Immunity abolished by statute. Nev. Rev. Stat. § 41.480 (Michie).

Volunteer Protection Statutes

A volunteer for a charitable organization is immune from civil liability. A volunteer firefighter and a voluntary school crossing guard are considered employees of the state or

political subdivision. A person who donates food for free distribution, and a charitable organization that accepts and distributes the food has is not subject to civil liability. Various Good Samaritans, including lay persons, are not liable for civil damages for emergency aid rendered to a person in need. A volunteer medical dispatcher is immune from civil liability. An emergency management volunteer is not liable for death, injury or damage. An officer, director, member or volunteer of a fraternal benefit society is not liable for damages resulting from an exercise of discretion.

Nev. Rev. Stat. § 41.485, Charitable organization volunteers
A volunteer of a charitable organization is immune from liability for civil damages as a result of an act or omission of an agent of the organization, and for services that are not supervisory in nature and not part of official duties.

Exceptions: an intentional, willful, wanton or malicious act.

Nev. Rev. Stat. § 41.0309, Volunteer fire fighter
A volunteer for a public fire-fighting agency is deemed an employee of the state or political subdivision.

Nev. Rev. Stat. § 41.0308, School volunteer crossing guard
A voluntary school crossing guard for a school district is deemed to be an employee of the subdivision if they have completed safety training.

Nev. Rev. Stat. § 41.491, Food donor
No civil action for injury or illness which results from the consumption or use of food that is fit human use may be brought against:

- a person who in good faith donates the food to a charitable organization for free distribution,
- a non-profit charitable organization which accepts and distributes the food,
- a person who harvests food and donates it to a charitable organization, or
- a person who has received the donated food and serves it to a member of the immediate family.

Exceptions: injury or illness directly resulted from gross negligence or willful misconduct of the donor, donee, organization or employee.

Nev. Rev. Stat. § 41.500, Good Samaritan volunteers
Any person who renders emergency care without compensation and in good faith is not liable for civil damages as a result of an act or omission not amounting to gross negligence in rendering the care or arranging or failing to arrange for future care.

Generally, members of search and rescue organizations including volunteer firefighters, properly certified persons rendering CPR or using defibrillators, persons giving emergency care on a school playground or through public school activities, persons who provide training in the use of defibrillators, and places of businesses that keep defibrillators on the premises

are not liable for civil damages as a result of an act or omission that does not amount to gross negligence in rendering emergency care.

Nev. Rev. Stat. § 41.507, Volunteer medical dispatcher
In a county whose population is less than 100,000, a volunteer medical dispatcher is immune from civil liability for damages sustained as a result of an act or omission by him in the use of a medical dispatch system. This applies if the volunteer in good faith followed approved protocol and the act or omission does not amount to gross negligence.

Nev. Rev. Stat. § 414.110, Emergency management volunteers
An emergency management volunteer who is complying or attempting to comply with proper rules and measures is not liable for death or injury to persons or damage to property as a result of official activity.

Nev. Ann. Stat. § 695A.475, Fraternal benefit society
A director, officer, employee, member or volunteer of a fraternal benefit society who serves without compensation is not liable, and no cause may be brought against them for damages resulting from an exercise of judgement in carrying out duties.

Exception: the act or omission involved willful or wanton misconduct.

Recent Case Law

Foster v. Washoe County, 946 P. 2d 788, 1998
A county was sued for the actions of a Court Appointed Special Advocate in a custody dispute. The court found that CASA and its volunteers perform a valuable service and that exposure to liability could deter the willingness of private citizens to volunteer their time as special advocates. The court found that CASA and the Advocate were entitled to absolute quasi-judicial immunity under § 41.032.

New Hampshire

Charitable Immunity

Immunity not recognized. *Wheeler v. Monadnock Community Hosp*. 103 N.H. 306, 307, 171 A.2d 23 (1961).

Volunteer Protection Statutes

An uncompensated volunteer of a non-profit or government entity is immune from civil liability if the volunteer was acting in good faith and had prior written approval from the organization to act on its behalf. A volunteer assisting in a police council training program is immune from civil liability. An emergency management volunteer is not liable for death, injury or property damage. A volunteer firefighter while acting in official capacity has the immunities of an employee of the municipality. A member of a voluntary fire department,

rescue squad or emergency service is not liable for official duties. A Good Samaritan who renders emergency aid at an emergency is not liable for civil damages.

RSA § 508:17, Non-profit or government volunteers
A person who is a volunteer of a non-profit organization or government entity is immune from civil liability in any action brought on the basis of an act or omission resulting in damage if the organization or entity had a record indicating the person was a volunteer and the volunteer acted in good faith and within the scope of duty.

Exceptions: damage or injury was caused by willful, wanton or grossly negligent misconduct by the volunteer.

188-F:32-c, Police council training program volunteer
A volunteer of a non-profit organization or a government entity assisting the police council training program in good faith is immune from civil liability in an action if the volunteer had prior, written approval to act on behalf of the organization.

Exceptions: willful, wanton or grossly negligent misconduct by the volunteer.

RSA § 107-C:10, Emergency management volunteer
An emergency management volunteer is not liable for the death or injury to persons, or damage to property, as a result of volunteer activity.

RSA § 154:1-d, Volunteer fire fighters
A volunteer fire fighter who is acting in official capacity under the direction or supervision of the elected or appointed fire chief of a municipal fire department who is participating in a fire department activity sanctioned by the local government has the same immunities an privileges as the municipality or employees of the municipality.

RSA § 508:12-b, Volunteer fire fighters
No volunteer member of a fire department, emergency service or rescue squad is personally liable in any action for personal injury or property damage arising out of an act occurring in furtherance of official duties.

Exceptions: damages arising out of willful misconduct, gross negligence, or operation under the influence of drugs or alcohol.

RSA § 508:12 Good Samaritan law
Any person in good faith and without compensation who renders emergency care at the scene of an emergency to a person in urgent need of care or to a victim of a crime is not liable in civil damages for acts or omissions in rendering the care.

Exceptions: willful or wanton negligence.

Recent Case Law

Hacking v. Town of Belmont, 736 A. 2d 1229, 1997
Parents brought a lawsuit against a school district and town for their daughter's injuries suffered at a basketball game. The school argued that referees and coaches were immune under § 508:17, so immunity must be imputed to the school under a theory of respondeat superior. But the court said it was incumbent upon the school to supply the court with facts to establish that the referees, coaches and instructors would be immune, and the school did not do that. Therefore, immunity could not be granted.

New Jersey

Charitable Immunity

N.J. Stat. Ann. § 2A:53A-7, *Non-profit corporations and associations organized for religious, charitable, educational or hospital purposes; liability for negligence*

New Jersey nonprofits are not liable for negligently causing injury to beneficiaries of the organization.

The wording of the statute is as follows:

> a. No nonprofit corporation, society or association organized exclusively for religious, charitable or educational purposes or its trustees, directors, officers, employees, agents, servants or volunteers shall, except as is hereinafter set forth, be liable to respond in damages to any person who shall suffer damage from the negligence of any agent or servant of such corporation, society or association, where such person is a beneficiary, to whatever degree, of the works of such nonprofit corporation, society or association; provided, however, that such immunity from liability shall not extend to any person who shall suffer damage from the negligence of such corporation, society, or association or of its agents or servants where such person is one unconcerned in and unrelated to and outside of the benefactions of such corporation, society or association.
>
> Nothing in this subsection shall be deemed to grant immunity to any health care provider, in the practice of his profession, who is a compensated employee, agent or servant of any nonprofit corporation, society or association organized exclusively for religious, charitable or educational purposes.
>
> b. No nonprofit corporation, society or association organized exclusively for hospital purposes or its trustees, directors, officers or volunteers shall, except as is hereinafter set forth, be liable to respond in damages to any person who shall suffer damage from the negligence of any agent or servant of such corporation, society or association, where such person is a beneficiary, to whatever degree, of the works of such nonprofit corporation, society or association; provided, however, that such immunity

from liability shall not extend to any person who shall suffer damage from the negligence of such corporation, society, or association or of its agents or servants where such person is one unconcerned in and unrelated to and outside of the benefactions of such corporation, society or association; but nothing herein contained shall be deemed to exempt the agent, employee or servant individually from their liability for any such negligence.

c. Nothing in this section shall be deemed to grant immunity to: (1) any trustee, director, officer, employee, agent, servant or volunteer causing damage by a willful, wanton or grossly negligent act of commission or omission, including sexual assault and other crimes of a sexual nature; (2) any trustee, director, officer, employee, agent, servant or volunteer causing damage as the result of the negligent operation of a motor vehicle; or (3) an independent contractor of a nonprofit corporation, society or association organized exclusively for religious, charitable, educational or hospital purposes.

Volunteer Protection Statutes

A volunteer for a specifically centered non-profit organization is not liable in damages. A non-profit organization organized for hospital purposes, and its trustees, directors, officers and volunteers are not liable in damages. A blood bank volunteer is not liable for damages. A member of a voluntary ambulance rescue squad, or a member of the National Ski Patrol, is not liable in civil damages for emergency care rendered at an emergency. A member of a voluntary fire department, rescue or first aid squad is not liable for emergency aid rendered. A director, officer, member or volunteer of a fraternal benefit society is not liable for official acts of judgment.

N.J. Stat. § 2A:53A-7, Non-profit volunteers
A non-profit organization organized exclusively for religious, charitable, hospital or educational purposes or its trustees, directors, officers or volunteers are not liable in damage to any person who suffered from the negligence of an agent of the organization, if the person claiming injury is a beneficiary in any degree of the organization's service.

Exceptions: no immunity is granted for: willful, wanton or grossly negligent acts of omission or commission, including sexual assault, or damage caused as a result of the negligent operation of a motor vehicle.

N.J. Stat. § 2A:53A-7.2, Blood bank volunteers
A person serving a blood bank without compensation is not liable for damages resulting from the exercise of judgement in connection with official duties, or for any acts or omissions arising out of services rendered by the volunteer.

Exceptions: reckless disregard for duties.

N.J. Stat. § 2A:62A-1., Emergency care volunteers
Any person licensed to give aid, or a member of an incorporated first aid and emergency or voluntary ambulance rescue squad association, who in good faith renders emergency care at the scene of an emergency or while transporting the victim to a care facility is not liable for civil damages as a result of acts or omissions of the person rendering care.

N.J. Stat. § 2A:53A-12, Emergency volunteers
A member of a volunteer rescue, first aid or emergency squad, or a volunteer member of the National Ski Patrol who in good faith provides emergency aid and rescue services is not liable in any civil action as a result of acts or omissions in rendering aid.

Exception: immunity does not extend to the operation of a motor vehicle, or a willful and wanton omission or commission.

N.J. Stat. § 2A:53-13. Emergency volunteers
A member of a volunteer fire company who in good faith provides emergency first aid or rescue services for the control and extinguishment of a fire, or a member of a volunteer first aid or rescue squad is not liable in any civil action as a result of acts or omissions in rendering aid.

Exceptions: immunity does not extend to the operation of a motor vehicle, or a willful and wanton omission or commission.

N.J. Stat. § 17:44B, Fraternal benefit societies
A director, officer, employee, member or volunteer of a fraternal benefit society serving without compensation is not liable for damages resulting from the exercise of judgement in connection with official duties.

Exceptions: the act or omission involved willful or wanton misconduct.

Recent Case Law

Velezquez v. Jiminez, 763 A. 2d 753, 2000
The Court found that a physician who responded to an emergency call inside the hospital was not entitled to immunity under the Good Samaritan law, §2A:62A-1. The Good Samaritan Act was designed to encourage persons to give aid where they do not otherwise have a duty to do so. Here, the doctor was under a professional duty to care and so was not entitled to immunity.

Stollenwerk v. *Twp. of Mullica*, 720 A. 2d 422, 1998
A man sued the township for damage that he said volunteer fire fighters caused to his farm when they used flares to mark a landing for a rescue helicopter. The court said that under § 2A:53A-13, volunteer fire fighters are protected when performing services for the control of fires, as well as emergency first aid and rescue services. The farmer did not prove the fire fighters acted willfully or wantonly and they were therefore entitled to immunity.

Devries v. Habitat, 689 A. 2d 142, 1997
A volunteer was injured while working on a construction project for a nonprofit organization. The court said that the key issue under the charitable immunity statute § 2A:53A-7 is whether the volunteer was a beneficiary of the works of the organization. Here, the volunteer provided services and did not receive them. So the organization was not entitled to immunity.

Frields v. St. Joseph's, 702 A. 2d 353, 1997
A woman sued a volunteer rescue squad claiming it used excessive force and caused a wrongful death. The court found the paramedics acted negligently, but this did not automatically strip them of immunity under § 26:2K-29. The court found that the woman failed to present any facts that created a genuine issue of fact that the rescue squad members did not act in a reasonable manner.

Snyder v. American Ass'n of Blood Banks, 676 A. 2d 1036, 1996
A blood bank was sued for providing blood tainted with the AIDS virus. The court ruled that the blood bank was not entitled to charitable immunity under § 54:1-1 because it was not organized exclusively for charitable purposes.

New Mexico

Charitable Immunity

No clear authority. Absence of case law on charitable immunity suggests that the doctrine is not recognized.

Volunteer Protection Statutes

A member of a board of directors of a non-profit corporation is not liable for negligent acts or omissions of others, or any action done in the course of their own duties. An athletic volunteer is not liable for civil damages to the extent that he is not covered by insurance.

N.M. Stat. Ann. §53-8-25.3, Non-profit directors
A member of a board of directors of a non-profit corporation is not personally liable for damages resulting from the negligent act or omission of an employee or another director of the non-profit, or any action done in the course of the director's duties. This does not apply if the director breached or failed to perform duties of his office and this constituted willful misconduct or recklessness.

N.M. Stat. Ann. § 41-12-1, Athletic volunteers
A person who without compensation renders volunteer services as a manager, coach, athletic instructor, umpire, referee or league official in a non-profit sports association for minors, to

the extent that he is not covered by insurance the volunteer is not liable to any person for civil damages as a result of negligent acts or omissions in rendering service.

Exceptions: relief of liability is not granted if the conduct of the volunteer is below generally accepted standards, it was reasonably foreseeable the volunteer's conduct would cause a risk of harm, or the harm complained of was not a typical part of the particular sport.

New York

Charitable Immunity

Immunity abolished. *Rakaric v. Croatian Cultural Club "Cardinal Stepinac Organization,"* 76 A.D.2d 619, 430 N.Y.S. 2d 829 (1980).

Volunteer Protection Statutes

A member of a volunteer fire department is not civilly liable for an official act. A volunteer for the National Ski Patrol is not liable in civil damages for emergency aid rendered. A volunteer participating in a City of New York program is considered an employee and will be indemnified for liability suits.

NY CLS Gen Mun § 205-b, Volunteer fire fighter
Members of volunteer fire companies are not civilly liable for any act done in the performance of their duties as volunteer fire fighters.

Exceptions: willful negligence or malfeasance.

NY CLS Unconsol Ch 211-A, § 1
A person who is registered with the National Ski Patrol and voluntarily and without compensation renders emergency aid to a person in need is not liable for damages for injuries alleged to have been sustained from the care rendered.

Exceptions: injury or death was caused by gross negligence on the part of the volunteer.

NY CLS Educ § 6205, University immunity
A volunteer expressly authorized to participate in a volunteer program at the City University of New York is considered an employee and will be indemnified against any claim or suit arising from an act or omission occurring with the scope of his duties and service for the university.

Recent Case Law

Tobacco v. Babylon Volunteer Fire Dept., 696 N.Y. S. 2d 340, 1999.
A woman was injured when a fire truck struck the car she was in. She sued the fire department. The court said that volunteer fire fighters are afforded immunity for simple negligence. Liability is only imposed for willful negligence or malfeasance. The immunity is specifically not extended to fire districts. The fire department can be sued, even if individual fire fighters cannot be sued.

North Carolina

Charitable Immunity

Immunity abolished by statute. N.E. Gen. Stat. § 1-539.9

Volunteer Protection Statutes

A volunteer for a charitable organization is not liable for civil damages. A director or officer of a non-profit is not civilly liable for monetary damages, except to the extent that they are covered by insurance. A member of a voluntary fire department or rescue squad who offers emergency aid is not liable for civil damages. Volunteer fire fighters offering service in another municipality have the same immunities as when working in their own municipality. A volunteer for a guardian ad litem program is not liable for civil damages. An architect and an engineer who offer voluntary structural assistance during an emergency are not liable for damages arising from their assistance. A volunteer assisting with a hazardous material spill is not subject to any liabilities. An emergency management volunteer is not liable for death, injury or damage.

N.C. Gen. Stat. § I-539.10, Charitable volunteers
A volunteer who in good faith performs reasonable services for a charitable organization is not liable in civil damages for acts or omissions resulting in injury, death or loss arising from the services rendered.

Exceptions: the acts or omissions of the volunteer amount to gross negligence, wanton conduct or intentional wrongdoing, the acts or omissions occurred while the volunteer was operating a motor vehicle. A volunteer is deemed to have waived immunity to the extent that he has liability insurance.

N.C. Gen. Stat. § 55A-8-60, Non-profit directors
A person serving as a director or officer of a non-profit corporation is not civilly liable for monetary damages, except to the extent they are covered by insurance.

Exceptions: if the director or officer was compensated beyond reimbursement for expenses, they were not acting in the scope of duty, they committed gross negligence or willful or

wanton misconduct that resulted in the damage or injury, or they incurred the liability from the operation of a motor vehicle.

N.C. Gen. Stat. § 58-80-45, Volunteer fire fighters
All members of the volunteer fire department have the same authority, privileges and immunities when working at a fire or other emergency outside the limits of their municipality that they have in their own municipality.

N.C. Gen. Stat. § 58-82-5, Volunteer fire fighter or rescue squad Good Samaritan
Any member of a volunteer fire department or rescue squad who receives no compensation who renders first aid or emergency health care at the scene of a fire to a person in need is not liable in civil damages for acts or omissions relating to services rendered.

Exceptions: the acts or omissions amounted to gross negligence or wanton conduct or intentional wrongdoing.

N.C. Gen. Stat. § 7B-1204, Guardian ad litem volunteer
A volunteer participating in good faith in a judicial proceeding as a guardian ad litem is not civilly liable for acts or omissions committed in connection with the proceeding.

Exception: gross negligence.

N.C. Gen. Stat. § 83A-13.1, Architectural volunteer during emergency
A professional architect who voluntarily and without compensation provides structural assistance during an declared emergency is not liable for any personal injury, wrongful death, property damage or other loss caused by acts or omissions in the performance of services. This applies only to services rendered within 45 days after the emergency.

Exception: if the damages were caused by gross negligence, wanton conduct, or intentional wrongdoing , or arose out of the operation of a motor vehicle.

N.*C. Gen. Stat. § 89C-19.1, Engineering volunteer during emergency*
A professional engineer who voluntarily and without compensation provides structural or other engineering assistance during an declared emergency is not liable for any personal injury, wrongful death, property damage or other loss caused by acts or omissions in the performance of services. This applies only to services rendered within 45 days after the emergency.

Exception: if the damages were caused by gross negligence, wanton conduct, or intentional wrongdoing , or arose out of the operation of a motor vehicle.

N.C. Gen. Stat. § 143-215.104, Hazardous spill volunteer
A person who provides assistance in attempting to mitigate the effects of a hazardous spill is not subject to any liabilities.

Exceptions: if the volunteer incurred liability for the actual spill, received compensation, or the volunteer's acts or omissions led to damages resulting from gross negligence, or reckless, wanton or intentional misconduct.

N.C. Gen. Stat. § 166A-14, Emergency Management volunteer
An emergency management volunteer who complies or attempts to comply with rules and provisions is not liable for the death or injury to persons or damage to property as a result of volunteer activity.

Recent Case Law

Spruill v. Lake Phelps, 523 N.E. 2d 672, 2000
Volunteer fire fighters, while responding to a call, filled their tanks from a hydrant and spilled water. The water froze, and a man's car slid. He sustained injuries, and sued the fire fighters. The court looked at § 58-82-5(b) and said the overall purpose of the statute was to protect volunteer fire fighters from liability for ordinary negligence in responding to a fire. The court found the activities occurred in the suppression of a fire and did not constitute gross negligence. The court found, therefore, that the firefighters were entitled to immunity.

North Dakota

Charitable Immunity

Immunity abolished with respect to hospitals. *Granger v. Deaconess Hosp. of Grand Forks*, 138 N.W. 2d 443 (N.D. 1965); *Rickbeil v. Grafton Deaconess Hosp*., 74 N.D. 525, 23 N.W.2d 247 (1946).

Volunteer Protection Statutes

Non-profit volunteers, as well as directors, officers, and trustees are immune from civil liability. A Good Samaritan who renders emergency care is not liable to the person benefited for any claim that arises. A health care provider who renders services at a free clinic is not liable in a personal injury civil action. A Water Board volunteer is not liable for acts or omissions in the discharge of duty. A health care provider who volunteers for a prehospital is not liable to the recipient for emergency care given. An athletic volunteer, an insurance counseling volunteer, and a credit union volunteer are all immune from suit for acts or omissions relating to their official volunteer duties.

N.D. Cent. Code § 32-03-45, Non-profit volunteers
A person who voluntarily and in good faith provides services or performs duties on behalf of a non-profit is immune from civil liability for an act or omission resulting in damage.

Exceptions: the act or omission constitutes willful misconduct or gross negligence.

N.D. Cent. Code § 32-03-44, Non-profit director
A person who serves in good faith and without compensation as a director, officer or trustee of a non-profit and acts within the scope of duty organization is immune from civil liability for any act or omission resulting in damage.

Exceptions: acts or omissions that constitute willful misconduct or gross negligence.

N.D. Cent. Code § 39-08-04.1, Good Samaritan volunteer
Any person who is an unpaid volunteer and in good faith renders emergency care at the scene of an emergency is not liable to the person benefited by the service for any damages that may arise.

Exception: no relief for liability for damages resulting from intoxication, willful misconduct, or gross negligence of the volunteer.

N.D. Cent. Code § 32-03.1-02, Good Samaritan volunteer
Any person who renders aid or assistance necessary or helpful to an injured or ill person as a result of an accident or illness is not held liable in any personal injury civil action for acts or omissions arising from assistance given.

Exceptions: it is plainly alleged in the complaint and later proved that the volunteer's acts constituted intentional misconduct or gross negligence.

N.D. Cent. Code. § 32-03.1-02.2, Health care provider
A licensed health care provider who renders medical care on a voluntary basis at a free clinic is not liable in a personal injury civil action for acts or omissions that resulted in the rendering of care.

Exceptions: acts or omissions that constituted intentional misconduct or gross negligence.

N.D. Cent. Code § 61-35-27, Water board volunteer
A volunteer of the Water Board is not personally liable in that capacity for a claim based on acts or omissions in the discharge of duties.

Exceptions: a breach of the duty of loyalty, acts or omissions that involved intentional misconduct or knowing violation of the law, or a transaction from which the volunteer derived an improper personal benefit.

N.D. Cent. Code § 23-27-04.1, Medical Good Samaritan
A volunteer agent of a prehospital emergency medical center, or a licensed physician who provides volunteer medical direction to a prehospital, who in good faith renders emergency care is not liable to the recipient of the care for civil damages resulting in the acts or omissions of the volunteer.

Exceptions: no relief from liability for intoxication, willful misconduct, or gross negligence of the volunteer.

N.D. Cent. Code § 32-03-46, Athletic volunteer
Any person who in good faith provides free services as an athletic coach, manager, or official for a sports team organized pursuant to a non-profit is immune from civil liability for acts or omissions within the scope of duty that resulted in damage or injury to a player or participant. This applies if the athletic volunteer participated in an established safety program.

Exceptions: the act or omission constituted willful misconduct or gross negligence.

N.D. Cent. Code § 26.1-02-24.3, Insurance counseling volunteer
A person who in good faith provides volunteer services on behalf of the commissioner of insurance is immune from civil liability for an act or omission within their scope of duty that resulted in damage or injury.

Exceptions: the act or omission constituted willful misconduct or gross negligence. No immunity is granted to a person who caused damage as a result of negligent operation of a motor vehicle.

N.D. Cent. Code § 6-06-13.1, Credit union volunteers
A person who in good faith provides volunteer services for a credit union, and is not compensated except for expenses incurred, is immune from civil liability for an act or omission within their scope of duty that resulted in damage or injury.

Exceptions: the act or omission constituted willful misconduct or gross negligence. No immunity is granted to a person who caused damage as a result of negligent operation of a motor vehicle.

Recent Case Law

McDowell v. Gillie, 626 N.W. 2d 666, 2001
A family was involved in a car accident and stopped along the road. A truck driver stopped to inquire if everything was okay. The man told him everything was fine, and to continue along. As the truck driver pulled way, the truck slipped backwards and the family sustained injuries.

The court said that stopping at the scene of the accident and inquiring whether assistance was needed constitutes the act of rendering aid under the Good Samaritan law. By the statute's terms, the truck driver would have to establish at least one of two things to have rendered aid necessary or helpful in the circumstance: that he rendered actions which he thought were required to prevent death or serious injury and he reasonably believed he could successfully undertake, or he rendered actions he reasonably believed would benefit an injured or ill person, and he reasonably believed he could undertake the action. The court found that the truck driver did not establish either of these things at trial, so the case was remanded for another trial to resolve these factual issues.

Ohio

Charitable Immunity

Immunity abolished. *Albritton v. Neighborhood Centers Assoc. for Child Dev.*, 12 Ohio St. 3d 210, 466 N.E.2d 867 (1984); *Strock v. Pressnell*, 38 Ohio St. 3d 209, 527 N.E.2d 1235 (1988).

Volunteer Protection Statutes

Non-profit volunteers are not liable for their own acts or omissions in connection with the organization or for the acts or omissions of others in the organization. Athletic volunteers are not liable for damages in a tort action. An emergency volunteer is not liable for an act of his volunteer service that caused damage. A health care provider who provides services to an indigent client is not liable to a person or government entity for damages. A Good Samaritan who administers emergency care is not liable in civil damages. A health care worker who volunteers for an athletic association and provides emergency care is not liable for civil damages in administering the care.

ORC Ann. § 2305.38, Non-profit volunteers
A volunteer for a non-profit organization is not liable for damages in a civil action for injury, death, or loss that arises from actions or omissions of any officers, employees, trustees, or other volunteers of the organization.

A volunteer is not liable in damages in a civil action for injury, death, or loss that arises from actions or omissions in connection with any supervisory or corporate service performed for the non-profit organization.

A volunteer is not liable in damages in a civil action for injury, death or loss that arises from his actions or omissions in connection with a nonsupervisory or noncorporate service that he performs for the organization.

Exceptions: the liability relief is not granted if the volunteer actively and knowingly participated with the action or omission of an officer, employee, trustee or other volunteer, or if the volunteer ratifies the act or omission of another after it is done, or if the act or omission of the volunteer constitutes willful or wanton misconduct or intentionally tortious conduct.

ORC Ann. 2305.381, Athletic Volunteers
An athletic coach or official who does not receive compensation is not liable in damages in a tort action for injury, death or loss to person or property that was caused to a player or participant and allegedly caused by an act or omission of the athletic coach or official, or by another athletic coach or official. This applies if at the time of the act or omission the athletic coach or trainer had completed a requisite safety course.

Exceptions: the act or omission constitutes willful or wanton misconduct or intentionally tortious conduct.

ORC Ann. 5502.30, Emergency volunteer
An emergency volunteer who is authorized to assist any agency performing emergency management during a hazard is not liable for any injury, death or damages as a result of his volunteer activities.

Exceptions: willful misconduct.

ORC Ann. 2305.234, Health care volunteers
Volunteer health care professionals are not liable in damage to any person or government entity in any civil action for a health-related claim for injury, death or loss that allegedly arises from an act or omission of the volunteer. This applies to services provided to an indigent person at a non-profit shelter or health care facility. This applies if the volunteer determines in good faith that the person is capable of giving informed consent, informs the persons of the provisions of this section, and obtains informed consent and a written waiver.

Exceptions: the act or omission constitutes willful or wanton negligence.

Volunteer health care workers are not liable in damage to any person or government entity in any civil action for a health-related claim for injury, death or loss that allegedly arises from an act or omission of the volunteer. This applies to services provided to an indigent person at a non-profit shelter or health care facility.

Exceptions: immunity is not provided if at the time of the act or omission, the individuals involved are providing medical, dental or other health-related care pursuant to a community service work order, performing an operation, or delivering a baby. Immunity is not provided if the act or omission constitutes willful or wanton negligence.

ORC Ann. 2305.23, Good Samaritan law
Any person who administers emergency care at the scene of an emergency outside of a hospital, doctor's office or other place that has proper medical equipment is not liable in civil damages.

Exceptions: acts constituted willful or wanton misconduct

ORC Ann. 2305.231, Health care volunteer for a school athletic program
A voluntary team physician, a voluntary team dentist, and a voluntary team registered nurse who do not receive compensation are not liable for damages in a civil action for administering emergency care in a school athletic event, whether at the scene or while the injured person is being transported to a facility.

Exceptions: acts or omissions that constitute willful or wanton misconduct.

Recent Case Law

Zivich v. Mentor Soccer Club, 696 N.E. 2d 201, 1998
A boy sustained injuries at a city run, non-profit soccer club when he jumped on a goal post and it fell on him. The boy's parents sued the club and the city. The parents had signed a waiver of liability prior to the injury. The courts noted recent statutes that were passed such as § 2305.381 and § 2305.382 that might immunize the club, but said this cause of action arose before the statutes were passed. The court noted the important function of volunteers and volunteer organizations, and stated that without waivers of liability, many nonprofits that cannot afford insurance would not exist. Public policy justifies giving parents authority to enter into binding agreements or waivers on behalf of their children. The release of liability was held to be valid.

Oklahoma

Charitable Immunity

Immunity abolished. *Gable v. Salvation Army*, 186 Okla. 687, 100 P.2d 244 (1940).

Volunteer Protection Statutes

A volunteer acting on behalf of a charitable organization or non-profit corporation is immune from liability. However, the organization or corporation can still be sued for the volunteer's activities. A director of a non-profit is not personally responsible for the acts of an employee or another director. A person who performs volunteer services for a county have the protection of sovereign immunity. A person who volunteers with the Bar Association to provide legal services to indigent clients is not subject to liability for services performed.

76 Okl. St. § 31, Charitable and Non-profit volunteers
A volunteer acting in good faith and within the scope of official duty for a charitable organization or non-profit corporation is immune from liability in a civil action for an act or omission resulting in damage or injury.

Exceptions: gross negligence, willful or wanton misconduct.

In any action against a charitable organization or non-profit corporation for damages based on a volunteer's conduct, the doctrine of *respondeat superior* applies, and the organization is liable notwithstanding the volunteer's immunity.

A person who, in good faith and without compensation, donates or loans emergency equipment to a volunteer, is not liable for damages resulting from the volunteer's use of the equipment.

Exceptions: when the volunteer knew or should have known the equipment was dangerous or faulty in a way that could cause harm.

18 Okl. St. § 866, Non-profit director
A member of the board of directors of a non-profit corporation will not be held personally liable for damages resulting from a negligent act or omission of an employee or another director.

Exceptions: intentional torts or grossly negligent omissions personal to any director.

18 Okl. St. § 867, Non-profit director
A director of a non-profit corporation is not liable in monetary damages for a breach of fiduciary duty.

Exceptions: immunity from liability does not extend to a breach of the director's loyalty to the corporation, acts or omissions not in good faith that involve knowing violation of the law, or any transaction from which the director derived an improper benefit.

10 Okl. St. § 168, County volunteers
Persons who are not county employees but are performing voluntary, approved service without compensation have the protection of sovereign immunity of the state to the same extent as a paid employee.

22 Okl. St. § 1367, Bar Association volunteers
Any member of the Oklahoma Bar Association who volunteers professional legal services without compensation for purposes of providing legal defense services to an indigent client is not subject to liability for the services performed in conjunction with service for the indigent client.

Oregon

Charitable Immunity

Immunity abolished. *Wicklander v. Salem Memorial Hosp*., 235 Or. 488, 385 P.2d 617 (1963).

Volunteer Protection Statutes

A physician who provides emergency medical care anyplace where medical care is not regularly available is not liable for damages. A certified, volunteer Emergency Medical Technician is not liable if a claim of negligence arises. A physician who volunteers services to a charitable organization is not liable for damages. An individual who offers assistance in mitigating the effects of a hazardous material discharge, or who offers assistance to a generator dealing with a hazardous material discharge, is not liable in damages. A court

appointed special advocate volunteer is immune from liability for acts or errors in judgement in official duty.

ORS § 30.800, Emergency medical assistance
A physician is not liable in damages for injury, death or loss that result from acts or omissions in rendering emergency medical assistance. This applies to medical care rendered anyplace where medical or dental care is not regularly available, or medical care given without compensation as a team physician at an athletic event.

Exception: gross negligence.

ORS § 30.803, EMT volunteer
A certified emergency medical technician who receives no compensation is not liable in damages for injury, death or loss for a claim of negligence.

Exception: the injury, death or loss resulted from willful and wanton misconduct or an intentional act or omission of the volunteer.

ORS § 30. 792, Volunteer health care provider
A health care provider who, without compensation and within the scope of duty, voluntarily provides services to a charitable organization directly related to the charitable purpose of the organization is not liable for damages.

Exceptions: gross negligence or reckless, wanton or intentional misconduct.

ORS § 30.492, Hazardous material volunteer
A person who voluntarily provides assistance relating to mitigating the effects of an actual or threatened discharge of hazardous materials, or preventing or disposing of a discharge of hazardous waste, is not liable for damages.

ORS § 30.495, Exceptions
The immunity in § 40.492 does not apply to any person whose act or omission caused the discharge and would be otherwise liable for the damage, and does not apply to anyone who received compensation for their services.

ORS § 30.497, Exceptions
Nothing in §30.492 will be construed to limit or affect the liability of a person for damages resulting from gross negligence or reckless, wanton or intentional misconduct.

ORS § 30.505, Hazardous material compliance volunteer
A person who voluntarily provides assistance, training or advice to a generator directly related to procedures or actions that must be taken to comply with hazardous waste disposal law is not liable for damages.

Exceptions: this section does not apply to any person who in whole or in part caused the occurrence that resulted in damage and would otherwise be liable, or to any person who

received compensation. Immunity also does not apply to a person's gross negligence or reckless, wanton or intentional misconduct.

ORS § 419A.170, CASA volunteers
Any person appointed as a court appointed special advocate, CASA program director, or an employee or a member of the board of trustees of a CASA volunteer program is immune from liability for acts or errors in judgment made in the scope of duty.

Recent Case Law

Lourim v. Swenson, 977 P. 2d 1157, 1999
A former Boy Scout brought a suit against the Boy Scout organization, claiming a Scout leader sexually abused him. The court held that the organization could be vicariously liable, because the jury could decide that the abuse was a culmination of a series of actions that involved the ordinary and authorized duties of a Scout leader. The leader could be considered a servant of the corporation, even though he was a volunteer.

Pennsylvania

Charitable Immunity

Immunity abolished. *Nolan v. Tifereth Israel Synagogue, Inc.*, 425 Pa. 106, 227 A.2d 675 (1967)

Volunteer Protection Statutes

An uncompensated volunteer who renders services for a non-profit or government agency is not liable for civil damages. A non-profit director, officer or trustee is not liable for civil damages. A medical practitioner, a veterinarian, a person trained to use a defibrillator and a non-medical Good Samaritan who render emergency care at the scene of an emergency are not liable for civil damages. An athletic volunteer is not liable for civil damages. A volunteer firefighter is considered a public employee of the Commonwealth for liability purposes. A health care worker participating in a mass immunization project is not liable for illness or adverse reaction of any person immunized. A person who volunteers in various ways in response to a hazardous material spill is not liable for civil damages. A person who donates food for free distribution to the needy is not liable for civil damages. A volunteer license holder under the Department of Health Volunteer Services Act is not liable for volunteer care administered. A volunteer for the Department of Conservation and Natural Resources who operates Commonwealth vehicles is deemed to be a Commonwealth employee for purposes of general and automotive liability.

83 P.S. § 8332.4, Non-profit volunteer
Any person who, without compensation and as a volunteer, renders services for a non-profit organization or for the Commonwealth or a local government agency sponsoring a public

service program is not liable to any person for civil damages resulting from an act or omission of service.

Exceptions: the conduct of the volunteer fell substantially below generally accepted standards, and the person did an act or omitted doing an act that the person was under a recognized duty to do, and knew this created a substantial risk of harm.

Nothing in this act will be construed so as to affect the liability of a volunteer for acts or omissions relating to the transportation of participants in a public service program project.

83 P.S. § 8332.2, Non-profit officer, director or trustee
A person who serves as a director, officer or trustee of a non-profit is not liable for civil damages as a result of acts or omissions relating to the performance to official duties.

Exceptions: the conduct of the volunteer fell substantially below generally accepted standards, and the person did an act or omitted doing an act that the person was under a recognized duty to do, and knew this created a substantial risk of harm.

Nothing in this section will be construed as affecting the liability of a non-profit association.

83 P.S. § 8331, Medical Good Samaritan
Any medical practitioner who in good faith renders emergency care at the scene of the emergency is not liable for civil damages resulting from an act or omission in rendering the care.

Exceptions: acts or omissions intentionally designed to harm, or grossly negligent acts or omissions that result in harm to the person receiving emergency care.

83 P.S. 8331.1, Veterinarian Good Samaritan
A licensed veterinarian in good faith renders emergency care at the scene of the emergency is not liable for civil damages resulting from an act or omission in rendering the care.

Exceptions: acts or omissions intentionally designed to harm, or grossly negligent acts or omissions that result in harm to the person receiving emergency care.

83 P.S. 8331.2, Good Samaritan with use of defibrillator
An individual properly trained to use an automatic defibrillator, who in good faith uses an automatic defibrillator in an emergency, is not liable for civil damages resulting from an act or omission in rendering the care.

Exceptions: acts or omissions intentionally designed to harm, or grossly negligent acts or omissions that result in harm to the person receiving emergency care.

83 P.S. 8332, Non-medical Good Samaritan
Any person who renders emergency care, first aid or rescue at the scene of an emergency, or moves the person requiring care to a place of medical care is not liable to the person for civil damages as a result of acts or omissions in rendering the care.

Exceptions: acts or omissions intentionally designed to harm, or grossly negligent acts or omissions that result in harm to the person receiving emergency care.

83 P.S. § 8332.1, Athletic volunteer
Any person who without compensation volunteers as a manager, coach, instructor, umpire or referee in a sports program of a non-profit association, and the officer of a non-profit organization sponsoring a sports program, is not liable to any person for civil damages resulting from acts or omissions in rendering the service.

Exception: the conduct of the volunteer or non-profit falls substantially below general standards and it is shown the person or non-profit did an act or omitted an act that they were under a recognized duty to do and knew this would cause a substantial risk of harm.

83 P.S. § 8332.3, Volunteer firefighters
Volunteer firefighters will be treated as public employees under § 8501. This will not be construed to reduce or eliminate any other immunity available to volunteer firefighters under the law.

83 P.S. § 8334, Immunization project volunteers
An uncompensated physician who participates in a mass immunization project approved by the Department of Health is not liable to any person for illness, reaction of adverse effect arising from use of a drug or vaccine.

Exceptions: gross negligence.

83 P.S. § 8336, Hazardous material volunteer
Any person who provides services voluntarily and at the request of police, fire rescue squad agent, pertaining to the mitigation of damages resulting from a hazardous material spill, is not liable in civil damages for action or inaction in rendering care or advice.

Exceptions: immunity does not apply to any person who is under a legal duty to respond, received compensation, or did not possess or does not provide personnel that possess the needed skill, training or knowledge.

35 P.S. § 6022.301, Hazardous material emergency volunteer
A volunteer emergency service organization or hazardous material transporter is not liable for deaths, injury, property loss or environmental damage resulting from response to a hazardous material release.

Exceptions: acts or omissions that constitute gross negligence or willful misconduct.

83 P.S. § 8338, Food donation volunteer
A person is not subject to civil or criminal liability from the condition of food apparently fit for human consumption that they donated in good faith to a non-profit organization for ultimate free distribution to the needy.

Exception: this section does not apply to an injury or death that results from an act or omission of the donor constituting gross negligence, recklessness or intentional misconduct.

35 P.S. § 449.47, Volunteer license
A holder of a volunteer license in good faith renders professional healthcare services for the "Volunteer Health Services Act" is not liable for civil damages arising as a result of any act or omission in the rendering of care.

Exception: the conduct of the volunteer or non-profit falls substantially below general standards and it is shown the person or non-profit did an act or omitted an act that they were under a recognized duty to do and knew this would cause a substantial risk of harm.

This section does not apply unless the approved clinic posts an explanation of the exemptions from liability in a conspicuous place.

This section does not apply to institutional health care providers, such as hospitals or clinics, who are subject to vicarious liability for the conduct of the volunteer license holder.

71 P.S. § 1340.310, Department of Conservation and Natural Resources volunteer
A volunteer authorized by the Secretary of the Department of Conservation and Natural Resources is not deemed to be a Commonwealth employee except as stipulated in this act. Volunteers performing work under the terms of this Act are authorized to operate Commonwealth vehicles and will be treated as employees for the Commonwealth for the purposes of general and automotive liability.

<u>Recent Case Law</u>

White v. Associates in Counseling and Child's Guidance, Inc., 767 A. 2d 638, 2001
A director of administration for a non-profit sued the non-profit to compel corporate action. The non-profit argued that standing to sue non-profits should be very restricted because people otherwise would be afraid to volunteer for fear of liability. The court said that under the liability protection given to officers and directors and the limitation on standing to sue in § 5717, a director of a non-profit can sue the non-profit to enforce their own rights.

*Regester v. Longwood Ambu*l. Co., 751 A. 2d 694, 2000
A deceased man's family sued a voluntary ambulance company for taking too long to respond to a call, and not following driving directions provided by the 911 dispatcher. The court held that the ambulance company was entitled to immunity as a local agency under 35 Pa. Const. Stat. § 6931(j)(2), because it was a volunteer company recognized as a political subdivision.

Thomas v. Just for Wheels, Inc., 1999 U.S. Dist. LEXIS 5122
A couple was injured when their car collided with a van driven by a non-profit volunteer for a religious organization. A pastor, an employee of the non-profit, was riding in the van. The court found that the pastor's claim, that the organization could not be held liable because the driver was acting of his own accord and not under the control of the pastor, was not supported by any evidence. The undisputed nature of the pastor's relationship with the driver, though it was voluntary position, permits the inference that the pastor had the right to control the volunteer's driving at the time in question.

Egger v. Lynch, 714 A. 2d 1149, 1999
The administrator of a man's estate sued the volunteer fire department because the man had been given beer at a foreman's association fire hall, and then died in a car accident. The court found that the fire department was the official fire department of the township, based on a resolution recognizing the fire company as such, contributions from the township, and the fact that the township provided worker's compensation for the fire fighters. Thus, the fire department was a local agency and entitled to governmental immunity under 35 Pa. Const. Stat. § 6931.

Grieff v. Reisinger, 693 A. 2d 195, 1997
A husband and wife sued a volunteer fire association chief due to injuries sustained when the chief poured paint thinner on the floor of the fire station and it ignited. The fire chief and association claimed governmental immunity. The court held that the real property exception to the Political Subdivision Tort Claims Act, 42 Pa. Const. Stat. §§ 8541-8542 applied. Because the woman was injured by acts of the chief that involved care of the property, the chief was not immune from liability.

Rhode Island

Charitable Immunity

Immunity abolished. *Hodge v. Osteopathic General Hosp.*, 107 R.I. 135, 265 A.2d 733 (1970); *Glavin v. Rhode Island Hosp*., 12 R.I. 411 (1879).

Volunteer Protection Statutes

A volunteer, director, officer and trustee of a non-profit is not liable for conduct executed in official duty, or for bodily injury that occurs in a sporting event sponsored by the non-profit. Volunteer fire fighters, voluntary members of the rescue squad and ambulance association, and individuals properly certified by the American Heart Association and Red Cross are not liable for civil damages incurred in providing emergency assistance. A properly trained volunteer who provides emergency CPR or defibrillator assistance is not liable for civil damages resulting from the care. A person who serves as an athletic volunteer for a youth sports program organized by a non-profit is not liable for civil damages, and no official or employee of the non-profit is liable for the conduct of the organization sponsoring the youth

sports program. A school volunteer is not subject to civil or criminal penalties for giving notice to parents regarding a student's absence. A disaster management volunteer is not liable for civil damages resulting from a disaster response. A court appointed special advocate volunteer is protected by the state for financial loss resulting from a lawsuit. The state provides indemnification for child advocate volunteers and volunteers for a human rights committee. A Winnisimet Farm Road District volunteer is not liable for official duties performed.

R.I. Gen. Laws § 7-6-9, Non-profit volunteer and director
A person serving without compensation as a volunteer, director, officer or trustee of a non-profit corporation, unincorporated non-profit organization, or an unincorporated public charitable institution is not liable to any person based solely on conduct executed in duty.

Exception: conduct constituted malicious, willful or wanton misconduct.

Officers, directors, agents, servants volunteers and employees of a corporation are not liable for bodily injury suffered by anyone in an athletic or sports competition sponsored by the corporation. This applies if the person has signed a proper waiver of liability, or the parent has signed in the case of a minor.

R.I. Gen. Stat. § 9-1-27, Good Samaritan
A member of a volunteer fire company, rescue squad, ambulance association, and any person properly certified by the American Heart Association or the American National Red Cross who voluntarily and without compensation renders emergency assistance to a person in need, is not liable for civil damages for personal injuries that result from acts or omissions in rendering care.

Exceptions: immunity does not apply to acts constituting gross, willful, or wanton negligence.

R.I. Gen. Stat § 9-1-34, CPR or defibrillator Good Samaritan
A properly trained person, acting in official capacity or as a volunteer, who renders emergency CPR assistance or automatic external defibrillator assistance without compensation is not liable for civil damages for personal injuries that result from acts or omissions in rendering care.

Exceptions: immunity does not apply to acts that constitute gross, willful or wanton negligence.

R.I. Gen. Stat § 9-1-27.2, Court appointed special advocate volunteer
The state will protect and hold harmless a court appointed special advocate from financial loss, including legal costs that may arise from a damages suit resulting from acts or omissions of the volunteer's duties that may constitute negligence.

Exceptions: acts which are wanton, malicious, or grossly negligent.

R.I. Gen. Stat. § 9-1-48, Athletic volunteer
Any person who volunteers without compensation as a manager, coach, instructor, umpire, referee or official or who volunteers to assist one in a youth sports program organized under a non-profit corporation is liable to any person for civil damages resulting from acts or omissions in rendering service.

A director, trustee, officer or employee of a non-profit which organizes, sponsors or conducts a youth sports program is not liable for acts or omissions in the organization, conduct or sponsorship of the youth sports program.

Exceptions: the acts or omissions were committed in willful, wanton or reckless disregard for the safety of the participants in the youth sports program.

R.I. Gen. Stat. § 16-19-10, School volunteer
School volunteers are immune from civil or criminal liability in connection with notice to parents of a pupil's absence from school or failure to give notice.

R.I. Gen. Stat. § 30-15-15, Emergency management volunteer
An emergency management volunteer is not liable for death, injury or property damage as a result of disaster response activity.

R.I. Gen. Stat. § 42-73-11, Indemnification for child advocate volunteers
The state will protect and hold harmless a volunteer appointed by the child advocate from financial loss, including legal costs that may arise from a damages suit resulting from acts or omissions of the volunteer's duties that may constitute negligence.

Exceptions: acts which are wanton, malicious, or grossly negligent.

R.I. Gen. Stat. § 42-73-11, Indemnification for human rights committee volunteer
The state will protect and hold harmless a volunteer member of a human rights committee from financial loss, including legal costs that may arise from a damages suit resulting from acts or omissions of the volunteer's duties that may constitute negligence.

Exceptions: acts which are wanton, malicious, or grossly negligent.

R.I. Gen. Stat. § 40.1-26-6.1, Human rights committee volunteer
A member of a human rights committee acting in good faith has immunity from civil or criminal liability that might be incurred in the performance of volunteer activities. The volunteer will not be made to answer in court for personal participation as a volunteer member of a human rights committee.

R.I. Gen. Statute § 45-57-12, Winnisimet Farm Road district volunteer
A person serving without compensation as a director, officer, or volunteer of the Winnisimet Farm Road district is not liable to any person based solely on conduct in execution of official duties.

Exception: conduct constituted malicious, willful or wanton misconduct.

Recent Case Law

Boccasile v. Cajun Music Ltd., 694 A. 2d 686, 1997
A man suffered an allergic reaction to food he consumed at a music festival. A medical crew in the first aid tent at the festival provided assistance, but the man died. His family sued the first aid crew. The court found that under the Good Samaritan Act, § 9-1-27.1, the family had the duty to come forward with standard of care evidence and affidavits establishing deviations from normal care, or some expert attribution of a connection between negligence and the man's death. No such evidence was submitted, and so the medical crew could not be found liable.

South Carolina

Charitable Immunity

Immunity abolished. *Hasell v. Medical Soc. of South Carolina*, 288 S.C. 318, 342 S.E.2d 594 (1986).

Awards against charitable organizations are limited to $250,000 in actions for injury or death caused by the tort of an agent, servant, employee, or officer. S.C. Code Ann. § 33-56-180.

Volunteer Protection Statutes

A person must bring a claim for damages suffered by an agent of a charitable organization against the organization and not the agent, unless the act was done in a reckless, willful or grossly negligent manner. A health care provider who volunteers medical services is not liable for civil damages. A physician or nurse who volunteers in a mass immunization project is not liable for illness or adverse reactions suffered. A volunteer for the Department of Social Services is not liable for acts or omissions in the scope of duty. A director, officer, member or volunteer of a fraternal benefit society is not liable for damages resulting from an act of official discretion or judgment. A government department may purchase insurance for its volunteers, and state volunteers have the same sovereign immunity as state employees.

S.C. Code Ann. § 33-56-180, Limitation of liability for injury or death caused by employee of charitable organization
A person sustaining an injury or dying because of a tortious act or omission of an agent, servant, employee or officer of a charitable organization who acted within the scope of employment may recover in an action brought against the charitable organization only the actual damages sustained. The amount may not exceed the limitations on liability imposed by the South Carolina Tort Claims Act, § 78-12. An action against the charitable organization constitutes a complete bar from recovery against the agent, servant, employee or officer whose act or omission caused the damage, unless the person acted in a reckless, willful, or grossly negligent manner.

If the actual damages arose from the operation of a motor vehicle and exceed $250,000, this section does not prevent the injured person from recovering benefits pursuant to §38-77-160. The amount may not exceed the limits of the uninsured or underinsured coverage.

S.C. Code Ann. § 20-7-545, Volunteer health care provider
A licensed health care provider who renders medical services voluntarily and without compensation is not liable for any civil damage for an act or omission resulting from the service rendered.

Exceptions: the act or omission was the result of volunteer's gross negligence or willful misconduct.

The agreement to provide voluntary, uncompensated service must be made before medical services are rendered.

S.C. Code Ann. § 44-29-210, Mass immunization volunteers
A physician or nurse who participates in a mass immunization project is not liable for illness or adverse effect arising from the use of a drug or vaccine by the employee, physician or nurse.

Exceptions: gross negligence.

S.C. Code Ann. § 20-7-545, Department of Social Services volunteer
An authorized volunteer for the Department of Social Services is immune from criminal or civil liability resulting from good faith acts or omissions within the scope of official duty.

Exceptions: the volunteer was reckless, willful, wanton or grossly negligent.

S.C. Code Ann. § 38-38-130, Fraternal benefit volunteers
A director, officer, employee or volunteer of a fraternal benefit society acting without compensation is not liable for damages resulting from the exercise of official discretion or judgment connected to duties for the society.

Exceptions: the act or omission involved willful or wanton misconduct.

S.C. Code Ann. § 8-25-40, Government volunteers
Liability insurance may be provided by the department utilizing the services of a volunteer, to the same extent as may be provided for employees of the department. Volunteers in state service have the protection of sovereign immunity to the same extent as employees.

Recent Case Law

Miller v. City of Camden, 494 S.E. 2d 813, 1997
People were injured when a dam collapsed. They sued a company on the grounds that it controlled the dam through a contract it had with the city, and had volunteered to take on the duty.

The court said that common law ordinarily imposes no duty on a person to act. If a person voluntarily does act, they assume a duty to use due care. If the question arises whether the person acting was a volunteer, whether or not there was a duty becomes a question for the fact-finder. The court remanded the case so a jury could decide whether the company volunteered to control the dam.

Fleming v. Asbill, 483 S.E. 2d 751, 1997
A guardian ad litem, appointed by the court, was sued by her former ward and his father. The court stated that guardians as litem are not "employees" under the South Carolina Tort Claims Act and thus not entitled to immunity as volunteers. The court found that case law from other jurisdictions and strong public policy considerations justified making guardians ad litem in private custody suits immune from liability. The court noted § 20-7-127 which says that lay volunteer guardians ad litem are not liable for damages, except for grossly negligent acts. The court called it "inequitable" to grant immunity to guardians ad litem in private custody actions, but not to volunteer guardians. The court called on the legislature to eliminate the discrepancy.

South Dakota

Charitable Immunity

No clear authority. Absence of case law on charitable immunity suggests that the doctrine is not recognized.

Volunteer Protection Statutes

A volunteer for a non-profit, a free clinic, a charitable hospital or a governmental entity is immune from civil liability. A director, trustee or officer serving a non-profit organization or a fraternal benefit society is not liable for damages resulting from the exercise of duty. A volunteer, non-profit, governmental entity and charitable hospital waive immunity to the extent that they participate in a risk sharing pool or purchase liability insurance.

S.D. Codified Laws § 47-23-29, Non-profit volunteers
A volunteer acting in good faith and within the scope of official duty for a non-profit organization or corporation, a free clinic, a charitable hospital or a governmental entity is immune from civil liability in any action brought in any court for an act or omission of the volunteer's that resulted in damage or injury.

Exceptions: the damage or injury was caused by gross negligence or willful and wanton misconduct.

S.D. Codified Laws § 47-23-2.1, Non-profit directors
A director, trustee or officer serving a non-profit organization without compensation is not liable, and no cause of action may be brought, for damages resulting from the exercise of discretion or judgment in connection with official duties or responsibilities.

Exceptions: the act or omission involved willful or wanton misconduct.

S.D. Codified Laws § 58-37A-8, Fraternal benefit society volunteers and directors
A director, officer, employee, member or volunteer of a fraternal benefit society is not liable, and no cause of action may be brought, for damages resulting from the exercise of discretion or judgment in connection with official duties or responsibilities.

Exceptions: the act or omission involved willful or wanton misconduct.

S.D. Codified Laws § 47-23-32, Waiver of immunity
To the extent that any volunteer, non-profit corporation or organization, governmental entity or charitable hospital participates in a risk sharing pool or purchases liability insurance, immunity provided by § 47-23-29 is waived and cannot be raised as an affirmative defense in court. This section does not apply to a volunteer serving as a director, officer or trustee.

S.D. Codified Laws § 20-9-4.1, Good Samaritan volunteer
A peace officer, conservation officer, member of any fire department, police department, first-aid or rescue squad, or any citizen acting as a volunteer who in good faith renders emergency care and services that they judged to be necessary during an emergency is not liable for any civil damages resulting from an act or omission in rendering care. Relief from liability extends to the operation of a motor vehicle in connection with care provided.

Exceptions: no liability relief is granted to a person who caused damage by willful, wanton or reckless acts of commission or omission.

Tennessee

Charitable Immunity

Property used solely for charitable purposes and not "derived from the operation of a business or concession incidental to [the organization's] main object" is exempt from execution under a tort judgment. *Hammond Post, Am. Legion v. Willis*, 179 Tenn. 266, 165 S.W.2d 78 (1942).

Volunteer Protection Statutes

Directors, trustees or members of governing bodies of non-profits are immune from suit for the conduct of their respective entity. Good Samaritans who provide emergency care are not liable in civil damages. A volunteer fire fighter is immune from suit for the exercise of official functions. A victim mediation volunteer is immune from civil action for official duties. A volunteer for the ombudsman office is immune from civil and criminal liability. An architect or engineer who volunteers their services following an earthquake is not liable for injuries or damages.

Tenn. Code Ann. § 48-58-601, Non-profit directors
All directors, trustees or members of the governing bodies of non-profit cooperatives, corporations, clubs, associations or organizations are immune from suit arising for the conduct of their respective entity.

Exception: there is no immunity from suit when conduct amounts to willful, wanton or gross negligence.

Tenn. Code Ann. § 63-6-218, Good Samaritan
Any person, including those licensed to practice medicine and surgery, or any member of a volunteer first aid, rescue or emergency squad who in good faith renders emergency care, including use of a defibrillator, at the scene of an accident, medical emergency or disaster and is not compensated is not liable to the person receiving care for any civil damages as a result of the person rendering care, or as a result of any act or failure to act to arrange further medical services.

Exceptions: damages that result from gross negligence of the person rendering care.

Tenn. Code Ann. § 29-20-201, Governmental immunity
All governmental entities are immune from suit for any injury that may result when a governmental entity is engaged in the exercise of official duties.

Tenn. Code Ann § 29-20-102
"Governmental entity" includes a member of a volunteer fire department.

Tenn. Code Ann § 16-20-105, Victim-mediation volunteer
Any volunteer of a victim-mediation center is immune from suit in a civil action resulting from an official act in their capacity as a volunteer.

Exceptions: willful or wanton misconduct.

Tenn. Code Ann. § 37-5-106, Department of Children's Services volunteer
A volunteer for the Department of Children's Services who is registered by the department with the Board of Claims is provided the same protection, legal representation and immunity for civil or criminal actions brought against them within the scope of their volunteer activity as a state employee is provided pursuant to § 8-42-10.

Tenn. Code Ann. § 63-6-707, Insurance for volunteer health care provider
No contract of professional liability insurance covering a health care provider can exclude coverage to a health care provider who volunteers their health care services, as long as the sponsoring organization and health care provider comply with necessary provisions.

Tenn. Code Ann. § 71-2-111, Ombudsman volunteers
Certified volunteers for the office of the ombudsman are immune from liability for acts or omissions within the scope of assigned duties.

Exceptions: willful, malicious or criminal acts or omissions or acts or omissions done for personal gain.

Tenn. Code Ann § 62-2-109, Architect and engineer volunteers
An architect or engineer, who voluntarily and without compensation provides structural inspection at the scene of an emergency caused by a major earthquake and at the request of a public official, is not liable in negligence for injury or damage for any good faith but negligent inspection. Immunity applies for inspections done within 90 days of the earthquake.

Exceptions: gross negligence and willful misconduct.

Recent Case Law

Lambert v. Baptist Hospital, 1997 Tenn. App. LEXIS 55
A woman sued a hospital for the wrongful death of her husband, alleging that his death was caused by the negligence of the hospital, its agents and employees. She charged that the counselor at the hospital-counseling center failed to identify her husband as a suicide risk. The court found that the hospital was a non-profit and operated at least partially with volunteers, including the counseling center. Pursuant to § 33-10-102, immunity is granted to a counselor at a counseling center, operated at least partially with volunteers, as a result of the suicide of any person consulting the counselor. Thus, the counselor was entitled to immunity and the hospital could not be held liable under a theory of respondeat superior.

Texas

Charitable Immunity

Immunity abolished. *Howle, v. Camp Amon Carter*, 470 S.W.2d 629 (Tex. 1971). Liability limited by statute (*see* Tex. Civ. Prac. & Rem. Code Ann § 84.001 to .008).

Volunteer Protection Statutes

A volunteer, director, officer or trustee of a charitable organization is immune from civil liability. A volunteer health care provider serving a charitable organization is immune from civil liability for damage caused to a patient. A Youth Council volunteer is not liable for an act or omission that causes injury, death or damage. A volunteer for a higher education institution is immune from civil liability for the exercise of discretion. A volunteer firefighter or volunteer fire department are not liable for damage to property while fighting a fire. A volunteer food donator, a person who allows their fields to be used to get food for donation, and a non-profit organization that distributes food to the needy are not liable for civil or criminal liability. An alternative dispute resolution volunteer is immune from civil liability. A volunteer who assists in the investigation of alleged child abuse is immune from civil or criminal liability. A volunteer for a child advocacy center is not liable for opinions or recommendations given in the scope of duty. A volunteer for the Department of Child Welfare and Protective Services, or for Protective Services for the Elderly and Disabled, is immune from official acts or omissions done in good faith.

Tex. Code § 84.004, Charitable organization volunteer
A volunteer who is serving as an officer, director or trustee of a charitable organization is immune from civil liability for an act or omission resulting in death, injury or damage if the volunteer was acting within the scope of duty.

A volunteer who is serving as a direct service volunteer for a charitable organization is immune from civil liability for an act or omission resulting in death, injury or damage if the volunteer was acting within the scope of duty.

A volunteer health care provider, who is serving a charitable organization in good faith, without compensation, and within the scope of duty to the organization, is immune from civil liability for an act or omission resulting in death, injury or damage to a patient.

Before health care services are provided, the patient or parent of a minor patient must sign a written statement that acknowledges that the volunteer is uncompensated and the limitations on the recovery of damages.

Exceptions: a volunteer for a charitable organization is liable for injuries arising from the operation of motor-driven equipment, to the extent that insurance is required and existing insurance covers the act or omission.

This section applies only to the liability of volunteers, and not to organizations.

Tex. Code § 61.096, Youth Council volunteers
A volunteer acting within the scope of his duty for the Texas Youth Council is not liable for damages arising from an act or omission that results in injury, death or property damage.

Exceptions: the act or omission was intentional or grossly negligent.

A volunteer is liable for damage caused that is related to the operation of motor-driven equipment, to the extent that insurance is required or insurance is actually maintained, whichever amount is greater.

Tex Code § 51.937, Higher education volunteer
A volunteer who is serving as a direct service volunteer and acting within the scope of duty for an institution of higher education is immune from civil liability for the exercise of discretion or judgment.

Exceptions: intentional misconduct or gross negligence.

This section does not apply to the operation or maintenance of a motor vehicle.

Tex. Code § 78.001, Volunteer fire fighter
A volunteer fire fighter and volunteer fire department are not liable for damage to property resulting from reasonable and necessary action to fight or extinguish the fire.

Tex. Code § 76.004, Food donation volunteers
A person is not subject to civil or criminal liability arising from the condition of apparently wholesome food that they donate to a church, a not-for-profit or non-profit organization for distribution to the needy.

Exceptions: an act or omission that constitutes gross negligence, recklessness or intentional misconduct.

A person allowing their fields to be used by volunteers to get food for the needy is not subject to civil or criminal liability that arises from injury to a volunteer.

Exceptions: an act or omission constituting gross negligence, recklessness or intentional misconduct.

A non-profit organization is not subject to criminal or civil liability arising from the condition of apparently wholesome food that they distribute to the needy at no charge and in compliance with all laws.

Exceptions: an act or omission of the organization constituting gross negligence, recklessness or intentional misconduct.

Tex. Code § 154.055, Alternative dispute resolution volunteer
A person appointed to facilitate an alternative dispute resolution is immune from civil liability for an act or omission within the scope of duty as an improper third party.

Exceptions: wanton and willful disregard of the rights, safety or property of another.

Tex. Code § 261.106, Child abuse investigation volunteer
A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be imposed.

Tex. Code § 264.407, Child advocacy volunteers
A volunteer is not liable for civil damages for a recommendation or opinion given in good faith while acting in the official scope of duty for a child advocacy center.

Exception: gross negligence.

Tex. Code 40.061, Child Welfare volunteer
An authorized volunteer for the Department of Child Welfare and Protective Services is immune from civil or criminal liability for an act or omission related to an official duty, done in good faith and within the scope of the volunteer's authority.

Tex. Code § 48.054, Protective Services for the Elderly and Disabled volunteer
An authorized volunteer for the Protective Services for the Elderly and Disabled who at the request of the department participates in an investigation is immune from an act or omission if the person acted in good faith.

Recent Case Law

Bishop v. Texas A & M Univ., 150 Ed. Law Rep. 970, 43 Tex. Sup. Ct. J. 1001, 35 S.W. 3d 605, 2000
A college student brought a personal injury action against Texas A&M University for an accidental stabbing that occurred during the production of a school play. The 212th District Court, Galveston County, entered judgment for student. The court of appeals, with one justice dissenting, reversed and rendered, holding that the faculty advisors, although in the paid service of the university for their academic positions, were volunteers for purposes of their faculty-advisor roles. Therefore, the university could not be held liable under the Tort Claims Act. 996 S.W.2d 209, 215. The Texas Supreme Court disagreed, concluding that the faculty advisors were employees of TAMU at the time of the plaintiff's stabbing. The court found the university could be liable for the faculty advisors' negligent use of tangible personal property.

Utah

Charitable Immunity

Under *Utah Code Ann. § 78-19-3,* a nonprofit is not liable for damage or injury that was caused an intentional or knowing act of a volunteer which constituted illegal, willful or wanton misconduct, unless the nonprofit should have had reasonable notice of the volunteer's unfitness to provide services under circumstances that make the organization's

use of the volunteer reckless or wanton. A non-profit organization is also not liable where under the law a business employer would not be liable for an employee.

Volunteer Protection Statutes

A volunteer for a non-profit organization, including directors, officers and trustees, is immune from legal and financial liability for acts or omissions of service, if the non-profit has a source of recovery for the person harmed. Physicians, physicians assistants, registered nurses, members of the ski patrol, persons certified to use defibrillators, various health care professionals and other certified individuals, as well as lay Good Samaritans, are not liable for civil damages in providing emergency care. Regional services volunteers are not subject to personal liability. School safety volunteers are immune from liability. A school volunteer who reports suspected sexual abuse is immune from liability. A health care provider who volunteers services at a health facility, and a facility that sponsors uncompensated health treatment, is not liable in a malpractice suit. A volunteer for the office of Public Guardians is immune from civil liability. A government volunteer is given the immunity and indemnification given to a government employee.

Utah Code Ann. § 78-19-2, Non-profit volunteers
A volunteer for a non-profit organization, including directors, officers, and trustees, does not incur any legal liability for an act or omission while providing services for the non-profit. A volunteer does not incur any personal financial liability for a tort claim or other action. This applies if the volunteer acted in good faith and reasonably believed they acted in the official scope of duty.

Exceptions: damage or injury was caused an intentional or knowing act of the volunteer that constituted illegal, willful or wanton misconduct.

The protection from liability does not apply if the injuries resulted from operation of a motor vehicle, vessel or aircraft or other vehicle for which a license is needed, when the suit is brought by a government official to enforce a law, where the non-profit organization fails to provide a financially secure source of recovery for the harmed individual. However, the non-profit organization is not under a duty to provide a financially secure source of recovery.

The granting of immunity to volunteers has no effect on the liability of the non-profit organization providing the source of recovery.

Utah Code Ann. § 78-19-3, Organization liability
A non-profit organization is not liable for damage or injury that was caused an intentional or knowing act of the volunteer which constituted illegal, willful or wanton misconduct, unless the non-profit should have had reasonable notice of the volunteer's unfitness to provide services under circumstances that make the organization's use of the volunteer reckless or wanton. A non-profit organization is also not liable where under the law a business employer would not be liable for an employee.

Utah Code Ann. § 26-8a-601, Good Samaritan medical volunteers
The following people are not liable for civil damages as a result of acts or omissions in rendering emergency care:

- A licensed physician, physician's assistant, or registered nurse who, without compensation, gives good faith, oral instructions to a certified person permitted to use an automatic external defibrillator.
- An individual certified pursuant to § 26-8a-302, a licensed physician, physician's assistant, or registered nurse who, without compensation and in good faith, provides emergency medical instructions or renders authorized emergency medical care.
- A registered member of the National Ski Patrol, or a member of the ski patrol who has completed a course in winter emergency care offered by the American Red Cross or Heart Association
- A person certified under §26-8a-308 who uses an automatic defibrillator in providing emergency care.

Exceptions: gross negligence or willful misconduct.

A principal, agent, contractor, employee or representative of an agency, organization, institution, or government entity that sponsors any functions of an individual certified under § 26-8a-302 is not liable for an act or omission in connection with the certified individual that relates to the training, or where the act or omission occurred outside of a hospital where a patient's life was in immediate danger, unless the act or omission was inconsistent with the individual's training.

Exceptions: gross negligence or willful misconduct.

A physician who in good faith and without compensation arranges for the transfer of a patient from a hospital to a critical care unit in another hospital is not liable for civil damages as a result of the transfer, where sound medical judgment deems it necessary and the physician has secured an agreement from the receiving hospital.

Utah Code § 58-13-2, Good Samaritan medical volunteers
The following licensed health care professionals, who are not under a duty to respond and render good faith care at the scene of an emergency without compensation, are not liable in civil damages for acts or omissions in rendering the care: osteopathic physician, physician and surgeon, naturopath, dentist or dental hygienist, chiropractic physician, physician assistant, optometrist or licensed nurse.

Utah Code § 78-11-22, Good Samaritan Act
A person who in good faith and without compensation renders emergency care at the scene of or during an emergency is not liable for civil damages or penalties resulting from an act or omission in rendering care.

Exceptions: the volunteer is grossly negligent or caused the emergency.

Utah Code Ann. § 17A-2-1830, Regional service volunteers
A trustee or any member acting on behalf of the board of Regional Services while is not subject to personal liability resulting from the performance of authorized.

The regional service area or any trustee, officer, employee agent or authorized volunteer is not liable for personal or property injury arising from operation of facilities for sports competitions.

Nothing in this section relieves the regional service area or any person from liability or responsibility for their own contracts, conducts or omissions.

Utah Code Ann. § 53A-3-402, School safety volunteers
Liability will not attach to authorized volunteers assisting a school safety program.

Utah Code Ann. § 53A-6-502, School volunteer
A school volunteer who makes a report of suspected sexual abuse of a student is immune from civil or criminal liability that might otherwise arise.

Utah Code Ann. § 58-13-3
A properly licensed health care provider who provides health care without compensation at a health care facility is not liable in a malpractice suit.

Exceptions: acts or omissions of the health care provider that are grossly negligent or willful and wanton.

Before rendering services, the health care professional must disclose in writing to a patient, or to a parent in the case of a minor, that the health care provider is providing service without compensation and thus is protected from liability.

A health care facility sponsoring uncompensated health care is not liable in a malpractice suit for acts or omissions if it did not receive compensation, and posted notice in a conspicuous place that the facility is not liable except for acts or omissions that are grossly negligent or willful and wanton.

Immunity under this section does not apply to use of general anesthesia or care that requires an overnight stay in a hospital.

Utah Code Ann. § 62A-14-108, Public Guardian volunteer
A volunteer for the office of Public Guardians is immune from civil liability pursuant to §63-30b.

Utah Code Ann. § 67-20-3, Government volunteers
A government volunteer is considered an employee for purposes of liability protection and indemnification normally provided to government employees.

Recent Case Law

Hirpa v. IHC Hospital, 948 P. 2d 785, 1997
A pregnant woman was admitted to the hospital in active labor. She went into respiratory failure, and a Code Blue was called. The hospital's medical director heard the call and took over the woman's care. The woman died. Her husband sued the doctor who responded to the Code Blue call. The doctor claimed immunity under the Good Samaritan Law, § 58-12-23, and said he was acting as a volunteer in the situation. The court found that doctors are protected by the Good Samaritan Act when responding to an in-hospital emergency if they have no pre-existing duty to the patient. § 58-12-23 applies without regard to location as long as the doctor did not have a professional duty to aid the patient in the hospital. The immunity only attaches to good faith effort, and to immediate emergency care offered. The doctor was therefore immune from liability.

Vermont

Charitable Immunity

Immunity abolished. *Foster v. Roman Catholic Diocese of Vermont*, 116 Vt. 124, 70 A.2d230 (1950).

Volunteer Protection Statutes

A non-profit director, officer or trustee is not personally liable for another's act or omission at the organization or their own act or omission. In an action against a volunteer for a state agency or court, the state will provide legal representation to the volunteer. Officials or members of a volunteer fire department are not liable for acts or omissions involved with official duty. They have the same immunities when providing aid outside of their own municipality. A volunteer assisting with a non-profit rabies inoculation program is not liable for damages. Volunteer ambulance personnel are not liable for emergency air rendered. A person who donates food in good faith to an organization for free distribution to needy people is not liable for damages resulting from the food. A library volunteer is not liable for damages. A volunteer assisting with a hazardous materials cleanup is not liable for damages arising from volunteer service.

201 V.S.A. § 5781, Non-profit directors
A person who serves in good faith and without compensation as a director, officer, or trustee of a non-profit organization is not personally liable for damages resulting from an act or omission within the scope of official duty, the act or omission of an employee of the organization, or an act or omission of another director, officer or trustee.

Exceptions: an act or omission that constitutes gross negligence or an intentional tort. This section does not protect a person from liability for damages that result from the operation of a motor vehicle.

3 V.S.A. § 1101, Government volunteers
In a civil action against a volunteer of a state agency or court for alleged damage, injury, loss or deprivation of rights arising from a volunteer's act or omission of official duty, the state will defend the action on behalf of the volunteer and provide legal representation at the state's expense.

20 V.S.A. § 2922, Volunteer fire department official
An official of a volunteer fire department is not liable for any at or omission on his part or the part of any member of the department, while engaged in extinguishing a fire or at or near the scene of a fire. A member of a volunteer fire department is not liable for his own act or omission if he was acting under orders from his superior.

20 V.S.A. § 2962, Outside volunteer fire aid
A volunteer fire department whose forces are rendering outside aid are not liable for an act or omission on the part of the engaged forces, or on account of the maintenance or use of any equipment or supplies. A commissioner, chief, or superior officer of a volunteer fire department is not liable for acts or omissions of his subordinates who are under the command of another person.

20 V.S.A. § 2964, Outside volunteer fire aid
Whenever the fighting forces of a volunteer fire department are rendering outside aid, officers and members have the same duties, rights, privileges and immunities as if they were performing their duties in their own political subdivision.

20 V.S.A. § 3812, Rabies inoculation volunteer
Any person who volunteers at a non-profit public clinic by assisting with the inoculation of domestic pets, wolf-hybrids and domestic animals is not liable to another person for injuries resulting from animal loss, animal bites or the inoculation process.

24 V.S.A. § 2687, Volunteer ambulance personnel
Volunteer ambulance personnel, whether or not they receive nominal payments and reimbursements for expenses, who render emergency treatment are not liable for civil damages in rendering the care.
Exceptions: their actions constituted gross negligence or willful misconduct.

12 V.S.A. § 5762, Food donation volunteers
A good faith donor of any food or farm product apparently fit for human consumption who donates to a charitable or non-profit organization for free distribution is not subject to criminal penalty or civil damages arising from the condition of the food. This applies if the donor reasonably inspects the food at the time of donation and finds it to be fit.

Exceptions: the donor knows or should have known the food was adulterated, tainted, contaminated or harmful to health or well being of a person.

201 V.S. § 5781, Library volunteers
A volunteer for a library will not be held personally liable for damages resulting from services provided to patrons in the course of duty or for information contained in library materials.

201 V.S. § 5783, Hazardous material volunteer
A person who is not compensated and provides assistance or advice in mitigating the effects of a discharge of hazardous materials or in the cleanup of the hazardous materials is not liable for damages. This applies to any person who is qualified by training, education or experience or who is properly supervised by such a qualified person.

Exceptions: damages resulting from gross negligence or willful misconduct.

Virginia

Charitable Immunity

Wholly charitable organizations are immune from suits by beneficiaries alleging negligence absent a finding of corporate negligence. *Radiosevic v. Virginia Intermont College*, 633 F. Supp. 1084 (W.D. Va. 1986) (applying Virginia law); *Egerton v. R.E. Lee Memorial Church*, 395 F.2d 38 (4th Cir. 1968) (applying Virginia law). Immunity is not applicable if a nonprofit fails to exercise ordinary care in the selection and retention of employees. *Infant C. v. Boy Scouts of America*, 239 Va. 572, 391 S.E.2d322 (1990). Immunity does not extend to suits by invitees or strangers having no beneficial relation to the charitable institution. *Straley v. Urbanna Chamber of Commerce*, 243 Va. 32, 413 S.E.2d47 (1992); *Thrasher v. Winand*, 239 Va. 338, 389 S.E.2d 699 (1990).

Volunteer Protection Statutes

An uncompensated officer or director who serves a non-profit or community association is not liable for damages. A volunteer fire department or emergency medical services company who has contracted or is utilized by the town, county or city is exempt from suit for damages done while providing service. A volunteer health care provider is not liable for civil damages. Various Good Samaritans, including lay people, are not liable for acts or omissions in providing emergency care. Hospice volunteers, court appointed special advocate volunteers, zoning volunteers and school volunteers who notify parents of a student's absence, are not liable for civil damages for acts or omissions done in the performance of duty.

V.A. Code Ann. § 13.1-870.1, Non-profit directors
An officer or director who serves a non-profit corporation or community association without compensation is not liable for damages in any proceeding.

Exceptions: liability is not limited if the officer or director engaged in willful misconduct or knowingly violated the law.

V.A. Code Ann. § 27-23.6, Volunteer fire fighter and medical services
When a town, county or city contracts with or uses a volunteer fire fighting or emergency medical services company, the company is deemed to be an instrument of the town, county or city and is exempt from suit for damages done incident to providing services.

V.A. Code Ann. § 32.1-122.10:005, Volunteer health care provider
A volunteer of a participating entity who is licensed to provide health services is not liable for any civil damages in rendering free health care.

Exceptions: an act or omission resulting from gross negligence or willful misconduct.

V.A. Code Ann. § 8.01-225, Good Samaritans
The following people are not liable for civil damages resulting from their emergency services:

- A person who in good faith and without compensation renders emergency care to an ill or injured person at the scene of a life-threatening emergency or en route from an emergency to a medical facility.
- Any person who provides emergency obstetrical care to a woman in active labor who had not previously cared for her in connection with the pregnancy and did not have the woman's medical records readily available.

Exception: gross negligence.

- Any person who in good faith and without compensation administers epinephrine to a person for whom an insect sting treatment kit was prescribed, if it is reasonably believed the person is about to suffer an anaphylactic reaction.
- Any person who in good faith provides assistance at the request of a police agency, fire department, rescue or emergency squad or any government agency involving hazardous materials.
- A certified emergency medical care attendant or technician who in good faith and without compensation renders emergency care by the telephone or other means of communication to an ill or injured person at the scene of an emergency or en route to a medical facility.
- A person certified in CPR who in good faith and without compensation renders emergency cardiopulmonary or cardiac care, including the use of a defibrillator.
- A National Ski Patrol volunteer who in good faith renders emergency care at the scene of an emergency or while transporting the person to a medical facility.

Exceptions: acts or omissions resulting from gross negligence or willful misconduct.

- A certified physician serving without compensation as the operational medical director of a licensed emergency medical services agency.

Exceptions: gross negligence or willful misconduct.

- A volunteer engaging in rescue work at a mine, or a mine operator who provides personnel to do rescue work.
- A licensed physician acting without compensation as a medical director to an E-911 system who follows protocol is not liable when answering emergency calls.
- A licensed physician serving without compensation as a supervisor of an automatic external defibrillator is not liable for advice rendered in relation to the defibrillator.

Nothing in this section provides immunity from liability arising out of operation of a motor vehicle.

V.A. Code Ann. § 2.2-3605, Volunteer benefits
A governmental department may provide liability insurance to a volunteer to the same extent as provided to an employee. Volunteers in state and local service have the protection of sovereign immunity to the same extent as paid staff.

V.A. Code Ann. § 8.01-226.4, Hospice volunteers
A volunteer who in good faith and without compensation renders care for a hospice program is not liable for civil damages resulting from the care.

V.A. Code Ann. 9.1-154, Court appointed special advocate volunteer
A volunteer participating in a court appointed special advocate program is not subject to personal liability while acting within the scope of duty.

Exceptions: gross negligence or intentional misconduct.

V.A. Code Ann. § 15.2-1132, Zoning volunteer
A volunteer assisting a city with enforcement of zoning laws has the immunity of an employee doing the same job.

V.A. Code Ann. § 22.1-258, School volunteers
A school volunteers who in good faith notifies a parent when a student is absent from school is not liable for civil damages resulting from acts or omissions.

<u>Recent Case Law</u>

Mooring v. Virginia Wesleyan College, 44 Va. Cir. 41, 1999
A child's thumb was amputated when a university professor closed a door on the child's thumb at a Boys & Girls Club. The professor had established a program enabling his students to participate as volunteers at the Boys and Girls Club. At the time of the accident he was guarding a door to prevent younger children from entering a program, conducted by one of his students, designed for young teens. The parties stipulated that the Club was a charity entitled to charitable immunity and that the child was a beneficiary of the charity. The trial court held that because the professor received no extra compensation from the Club or Virginia Wesleyan College for the services he rendered, and because the professor's role at the Club was both supervising his students and "helping the Club perform its good work,"

he was "a volunteer at the Club" and thus entitled to charitable immunity under *Moore v. Warren*, 250 Va. 421, 463 S.E.2d 459 (1995). In the *Moore* case the court required an individual seeking the cloak of a charity's immunity to establish that he was an agent or servant of the charity at the time of the alleged negligence and that the alleged negligence for which he seeks immunity occurred while he was actually doing the charity's work.

In reviewing this case, the Supreme Court of Virginia found that at the time of his alleged negligence, the professor was not at the Club to directly perform any of the Club's work; rather he was carrying out his duties as a professor at Virginia Wesleyan College. In reversing the judgment of the trial court and remanding the case for further proceedings, the court concluded that the professor was not entitled to charitable immunity because he was not engaged in the work of the charity at the time of his alleged negligence.

Toms v. Greene County Rescue Squad, 48 Va. Cir. 520, 1999
A woman was involved in a car accident with an ambulance and sued the ambulance squad. The court held that under § 27-23.6, a city, town or county can enter into contracts with volunteer fire and rescue squads and they are thus entitled to sovereign immunity. The driver in this case was acting within the scope of his authority and was not accused of acting recklessly or with gross negligence. Thus, the court granted the ambulance squad's plea of sovereign immunity.

Wheatley v. United States, 1999 U.S. App. LEXIS 30726
A girl was treated for asthma at an Army hospital. Later, at home, she began having trouble breathing and her mom rushed her to the hospital. The guards at the front gate of the base saw she was not breathing, removed her from the car and began rescue breathing on her before medical personnel transported her to the hospital. She died the next day. Her mother submitted claims for damages under the Federal Tort Claims Act. The lower court dismissed the case, finding that the guards were entitled to immunity under Virginia's Good Samaritan Act, § 8.01-225(A)(1).

The appellate court affirmed the immunity of the guards, finding that the girl stopped breathing before she arrived at the gate, so the guards in not just letting her pass did not create the emergency, as the mother claimed. Their actions amounted to care rendered at the scene of an emergency, and they were entitled to immunity under the Good Samaritan law.

Bowen v. Scott County Lifesaving, 43 Va. Cir. 28, 1997
A first-aid crew and a county Life Saving crew were sued after transporting a man in an ambulance who later died. The plaintiff alleged that the defendants' conduct was willful and wanton and that they were grossly and simply negligent. The court found that Virginia law § 8.01-225 provides absolute immunity to certified emergency medical technicians from civil damages. The only limitation of the immunity is that the person must have acted in good faith. This statute also provided immunity for the ambulance Life Saving Crew.

Daddio v. Ashley, 43 Va. Cir. 283, 1997
A volunteer firefighter driving his personal vehicle responded to a call for assistance and was involved in a car accident. The court found that under § 27-23.6, the volunteer fire company was entitled to immunity, but not the firefighter. The fire company exercises little control over a firefighter until he arrives at the station and puts on his gear. While driving his private vehicle on the way to the scene, the firefighter was not under the control of an immune instrumentality. The firefighter also didn't prove that he used judgment and discretion while driving. The firefighter was not required to engage in a risky pursuit to make it to the station and fulfill his volunteer duties, and so he was not entitled to absolute immunity.

Carter v. Science Museum, 43 Va. Cir. 498, 1997
A person was bitten by an iguana at a museum and sued the museum. The court found that the museum was a charitable institution for the purposes of charitable immunity. The museum was not maintained for gain, profit or advantage. The person bitten was enjoying a benefit of the museum at the time the harm occurred. The fact that the charitable institution charged the person for admission does not negate the charitable immunity defense available in Virginia. The museum volunteer who was handling the iguana was protected against a claim alleging negligence because the volunteer of a charity enjoys charitable immunity when performing service for the charity.

Washington

Charitable Immunity

Immunity abolished. *Friend v. Cove Methodist Church, Inc.*, 65 Wash. 2d 174, 396 P.2d 546 (1964).

Volunteer Protection Statutes

A member of a board of directors or an officer of a non-profit is not individually liable for an official, discretionary act. A Good Samaritan is not liable for emergency care rendered. A volunteer for a state agency may request legal representation for a suit brought in connection with volunteer duties. Government entities are liable in damages for the tortious conduct of volunteers. Volunteers for a dispute resolution center, an at-risk-children's program, or a community corrections program are not liable for civil damages. Architects and engineers who provide voluntary services during an emergency are exempt from civil damages.

Rev. Code Wash. § 4.24.264
A member of the board of directors or an officer of a non-profit corporation is not individually liable for a discretionary decision or failure to make decision within the scope of official capacity as a director or officer.

Exception: gross negligence.

Rev. Code Wash. § 4.24.300, Good Samaritan volunteer

Any person, including a volunteer provider of emergency or medical services, who without compensation renders emergency care at the scene of an emergency or who assists in transporting an injured person for medical treatment is not liable for civil damages resulting from care rendered.

Exceptions: acts or omissions constituting gross negligence or willful or wanton misconduct.

A person rendering emergency care as part of their employment or for compensation is excluded from the liability protection in this section.

Rev. Code Wash. § 4.92.060, State volunteers
When a suit for damages is brought against a state volunteer, arising from acts or omissions in good faith performance of duty, the volunteer may request the attorney general to authorize the defense of the action or proceeding at the expense of the state.

Rev. Code Wash. §, Defense fund
A liability account in the custody of the treasurer exists to be used solely for the payment of liability settlements and judgments against the state, or for the tortious conduct of officers, employees and volunteers and all related legal costs.

Rev. Code Wash § 4.96.010, Governmental volunteers
All local governmental entities are liable for damages arising from the tortious conduct of volunteers who perform their official duties in good faith, to the same extent as if they were a private person or corporation.

Rev. Code Wash. § 7.75.100, Dispute resolution center volunteers
Volunteers of a dispute resolution center are immune from suit in any civil action for official acts performed as a volunteer.

Exceptions: willful or wanton misconduct.

Members of the board of directors of a dispute resolution center are immune from suit in any civil action for official, good faith acts performed.

Rev. Code Wash. § 43.150.080, Volunteers for at-risk-children programs
A volunteer organization or a volunteer serving at-risk-children are not liable for civil damages resulting from an act or omission arising from volunteer activities that comply with stipulated safety standards.

Exceptions: acts or omissions constituting willful or wanton misconduct.

Rev. Code Wash. § 72.09.320, Community corrections volunteers
Volunteers who assist community corrections officers are not liable for civil damages arising from an act or omission of community placement activities.

Exceptions: the act or omission constitutes gross negligence.

Rev. Code Wash. § 38.52.195, Architect and engineer volunteers
A volunteer architect or engineer serving as a voluntary emergency worker is provided the exemption from liability as provided in § 38.52.195.

Rev. Code Wash. § 38.52.195, Conditions of exemption
Architects and engineers volunteering as emergency workers are exempt from liability for their volunteer acts if they were acting within the scope of duty and they were assisting an approved organization for emergency management

Exceptions: the injury, loss or damage was caused by the workers intoxication, willful misconduct or gross negligence.

Recent Case Law

Maynard v. Ferno-Washington, Inc. 22 F. Supp. 2d 1171, 1998
A volunteer emergency medical technician (EMT) was injured while unloading a patient from the ambulance. She sued a fellow EMT. The court found that under Washington's Good Samaritan Law, § 4.24.310(2) immunity does not apply to anyone who is facing a suit brought by someone other than the initially injured party. The legislative intent was to protect Good Samaritans from claims of ordinary negligence for acts that cause further harm to an ill or injured person. The EMT was not immune from ordinary negligence that allegedly caused her co-worker's injury.

Hansen v. Horn Rapids O.R.V. Park et. al. , 932 P. 2d 724, 1997
A man was injured in a motorcycle accident. He claimed the volunteer emergency medical technicians (EMTs) removed his helmet improperly and worsened his injury. The lower court found that the rescue service and the EMT were volunteers under § 4.24.300, and thus immune from liability for all conduct except gross negligence. The court also found that the city was not vicariously liable for the plaintiff's injuries because they sponsored the race he was participating in when he was injured. The city did not owe a duty of care to the man to provide first-aid services, and so it was not liable for the allegedly negligent acts of the EMTs.

West Virginia

Charitable Immunity

Immunity abolished. *Adkins v. St. Francis Hosp.*, 149 W. Va. 705, 143 S.E.2s 154 (1965).

Volunteer Protection Statutes

A director of a volunteer organization is not liable for any official acts or omissions. A volunteer organization is not relieved from liability for the negligent acts of a director or official of the organization. A physician with a volunteer license who renders medical

service to needy people is immune from civil liability. A physician who volunteers services at a school athletic event is not liable for emergency care rendered. An emergency service worker is not liable for death, injury or damages. A person who donates food in good faith to an organization, or an organization who accepts and distributes food to the needy, is not liable for damages resulting from the food. An ombudsman volunteer is immune from suit for official activities. A forestry volunteer is not liable for damages resulting from volunteer activities.

W. Va. Code § 55-7C-3, Volunteer-organization directors
A qualified director is not personally liable for negligence, either through act or omission, actual or imputed, in the official performance of duties on behalf of a volunteer organization or entity.

Exceptions: gross negligence.

A volunteer organization or entity is not relieved from liability for the negligent acts of a director committed within the scope of the director's official duties.

Nothing in this section will be construed to grant immunity to a person who causes damage through the operation of a motor vehicle.

W. Va. Code § 30-3-10a, Volunteer medical license
A physician with a volunteer license who renders medical service to needy patients of a clinic organized at least partly for the delivery of free health care is immune from liability for any civil action arising from an act or omission of service.

Exceptions: gross negligence or willful misconduct.

There must be a written agreement of liability between the physician and the clinic. The clinic must maintain insurance coverage of at least one million dollars.

W. Va. Code § 55-7-19, Physician volunteers at athletic games
Any person licensed to practice medicine and surgery who acts in the capacity of a team physician at an athletic event sponsored by a public or private elementary or secondary school, and agrees prior to the game to provide emergency care without compensation, is not liable for civil damages as a result of rendering such care.

Exceptions: acts or omissions that constitute gross negligence.

W. Va. Code § 15-5-11, Emergency volunteer
Qualified emergency service workers, including volunteers, who comply with rules and provisions are not liable for death, injury or damage to property as a result of their emergency activities.

Exceptions: gross negligence.

W.Va. Code § 9-8-2, Food donation volunteers
A person who makes a good faith donation of prepared or perishable food that appears to be fit for human consumption to a charitable or non-profit organization is not liable for damages in civil or criminal action for injury or death due to the condition of the food.

Exceptions: the injury or death is a direct result of gross negligence, recklessness or intentional misconduct of the donor.

A charitable or non-profit organization, or an employee, officer or volunteer who in good faith receives or distributes food for free that appears to be fit for human consumption is not liable for damages in civil or criminal action for injury or death due to the condition of the food.

Exceptions: the injury or death is a direct result of gross negligence, recklessness or intentional misconduct of the organization, employee, officer or volunteer.

W.Va. Code § 15-5L-16, Ombudsman volunteers
Long-term care ombudsman volunteers who perform official duties in good faith are immune from civil liability that might otherwise result.

Exceptions: the volunteer's participation is violative of an applicable law, rule or regulation.

W.Va. Code § 20-3-4, Forestry volunteers
A volunteer for the division of forestry who performs authorized actives is not liable in civil damages for death, injury, or property damage resulting from volunteer activities, greater than the amount of liability insurance held for that person by the division of forests.

Exceptions: the death, injury or damage was caused by willful or criminal misconduct, gross negligence, reckless misconduct or a conscious, flagrant indifference to the rights or safety of the person harmed.

Wisconsin

Charitable Immunity

Immunity abolished. *Wojtanowski, v. Franciscan Fathers Minor Conventuals*, 34 Wis. 2d 1, 148 N.W. 2d 54 (1967); *Widell v. Holy Trinity Catholic Church*, 19 Wis. 2d 648, 121 N.W.2d 249 (1963).

Volunteer Protection Statutes

A member of a non-profit is not liable for a breach of contract or a tortious act or omission of the non-profit or other member. A volunteer of a nonstock corporation is not liable for monetary liabilities. A Good Samaritan who had no prior duty to the ill or injured person is not liable in civil damages for emergency aid rendered. A volunteer for the Catholic Church,

or any church organization is not liable for civil damages arising from volunteer activities. A person who donates food in good faith to an organization, or an organization who accepts and distributes food to the needy, is not liable for damages arising from the food. A volunteer court appointed special advocate is not liable for civil damages. A school volunteers who administers a prescription drug to a student, or emergency aid to a student in need, is not liable for civil damages. A school volunteer who attempts to prevent a suicide of a student is not liable for civil damages.

Wis. Stat. § 184.06, Non-profit member
A person is not liable for a breach of contract of a non-profit association, a tortious act or omission of the non-profit, or a tortious act or omission of a member of the non-profit, just because they are a member of the non-profit.

Wis. Stat. § 181.0670, Nonstock volunteers
A volunteer of a nonstock corporation is not liable to any person for any monetary liabilities arising from an act or omission as a volunteer.

Exceptions: a knowing violation of criminal law, willful misconduct, an act or omission for which the volunteer received compensation, if the volunteer is a director or officer of the corporation--an act or omission within the scope of the volunteer's duties as director or officer, if proper credentials or a license were required and the volunteers did not have it.

The section does not apply to: a civil or criminal proceeding brought by a government entity, a proceeding brought for violation of state or federal law if it is brought under an express, private right of action created by state or federal statute, claims arising from the negligent operation of any motor vehicle for which a permit is required.

Wis. Stat. § 895.48, Good Samaritan volunteer
Any person who in good faith renders emergency care at the scene of an accident is immune from civil liability for acts or omissions in rendering the care. This does not extend to health care professionals who render care out of duty and for compensation.

A properly licensed physician, athletic trainer chiropractor, dentist, EMT, first responder, physician assistant, registered nurse, or massage therapist who render voluntary health care without compensation in an athletic event is immune from civil liability for acts or omissions if the care is rendered at the site of the event.

A person is immune from civil liability for good faith acts or omissions related to assistance or advice relating to an emergency from a hazardous material discharge.
Exceptions: immunity does not extend to any person who caused in whole or in part the emergency or the threat of emergency, or to persons whose act or omissions constitutes reckless, wanton or intentional misconduct.

Wis. Stat. § 187.33, Catholic Church volunteers
A volunteer who provides services without compensation on behalf of the Roman Catholic Church is not liable to any person for any monetary liabilities arising from an act or omission as a volunteer.

Exceptions: a knowing violation of criminal law, willful misconduct, an act or omission for which the volunteer received compensation, if the volunteer is a director or officer of the church--an act or omission within the scope of the volunteer's duties as director or officer, if proper credentials or a license were required and the volunteers did not have it.

The section does not apply to: a civil or criminal proceeding brought by a government entity, a proceeding brought for violation of state or federal law if it is brought under an express, private right of action created by state or federal statute, claims arising from the negligent operation of any motor vehicle for which a permit is required.

Wis. Stat. § 187.43, Church volunteers
A volunteer for a religious organization who provides services without compensation is not liable to any person for any monetary liabilities arising from an act or omission as a volunteer.

Exceptions: a knowing violation of criminal law, willful misconduct, an act or omission for which the volunteer received compensation, if the volunteer is a director or officer of the church--an act or omission within the scope of the volunteer's duties as director or officer, if proper credentials or a license were required and the volunteers did not have it.

The section does not apply to: a civil or criminal proceeding brought by a government entity, a proceeding brought for violation of state or federal law if it is brought under an express, private right of action created by state or federal statute, claims arising from the negligent operation of any motor vehicle for which a permit is required.

Wis. Stat. § 895.51, Food donation volunteer
A person engaged in the food business who donates or sells food to a charitable organization for free distribution is immune from civil liability for death or injury of a person related to the food.

A charitable organization, which distributes food free of charge to any person, is immune from civil liability for death or injury of a person related to the food.

Wis. Stat. § 48.236, Volunteer court appointed special advocate
A volunteer court appointed special advocate is immune from civil liability for any act or omission of the volunteer while acting in the scope of volunteer activities and authority.

Wis. Stat. § 118.29, School volunteers
An authorized school volunteer is immune from civil liability in administering a drug or prescription drug to a student.

Exceptions: the act or omission constitutes a high degree of negligence.

This does not apply to health care professionals.

A school volunteer, other than a health professional, who in good faith renders emergency care to a private or public school student is immune from civil liability for acts or omissions in rendering the care.

Wis. Stat. § 118.295, School volunteer
A school volunteer who in good faith attempts to prevent a suicide of a student is immune from civil liability for acts or omissions in relation to the suicide or attempted suicide.

Wyoming

Charitable Immunity

Charitable immunity was recognized in *Bishop Randall Hosp. v. Harley*, 24 Wyo. 408, 160 P. 385 (1916), but later interpreted to indicate that it only applies if an organization renders services without charge (see *Lutheran Hospitals & Homes Soc. of American v. Yepsen*, 469 P.2d 409 (Wyo. 1970). However, the volunteer protection statute, *Wyo. Stat. § 1-1-125* indicates that a nonprofit is liable for the negligent acts of its volunteers.

Volunteer Protection Statutes

A volunteer, director, officer or trustee of a non-profit organization and a volunteer fire fighter are immune from civil liability for official acts. Good Samaritans, including physicians, who render emergency care at the scene of an emergency are not liable for civil damages. A volunteer ambulance sponsor or an unpaid volunteer who staffs the ambulance are not liable for civil damages. A volunteer assisting in a hazardous material spill is not liable for civil damages. A volunteer guardian appointed by the court is not liable for civil damages. An emergency management volunteer is not liable for death, injury or damage resulting from service.

Wyo. Stat. § 1-1-125, Non-profit volunteers and volunteer fire fighters
A volunteer, which includes officers, directors, trustees, or anybody who performs service, for a non-profit organization or a volunteer firefighter who performs services for a volunteer fire department is personally immune from civil liability for any act or omission resulting in injury or damage. This applies if the volunteer was acting within the scope of official duty.

Exceptions: an act or omission that constitutes willful or wanton misconduct or gross negligence.

This does not grant immunity to any person who causes damage as a result of the operation of a motor vehicle.

A non-profit organization or volunteer fire department is liable for the negligent act of a volunteer under the theory of respondeat superior, notwithstanding personal immunity the volunteer may have.

Wyo. Stat. § 17-19-830, Non-profit directors
Members of the board of any non-profit corporation are not individually liable for actions, inactions or omissions of the non-profit.

Exceptions: individual liability for intentional torts or illegal acts.

Wyo. Stat. § 1-1-120, Good Samaritan volunteers
Any person licensed as a physician or surgeon, or any other person, who in good faith and without compensation renders emergency care at the scene of an accident or emergency is not liable for civil damages.

Persons or organizations who operate volunteer ambulance and rescue vehicles supported by public or private funds, staffed by unpaid volunteers, and receive no money for services, as well as the unpaid volunteer staff, are not liable for civil damages that arise from acts or omissions in providing emergency medical services.

Exceptions: acts or omissions that constitute willful or wanton misconduct.

A person who in good faith provides services without compensation in mitigating the effects of a hazardous materials spill or assisting with cleanup is not liable for civil damages arising from an act or omission of service.

Exceptions: acts or omissions constituting gross negligence or willful and wanton misconduct.

Wyo. Stat. § 3-2-112, Court guardian volunteer
A person who is appointed guardian of a ward and is not compensated is personally immune from civil liability for the good faith performance of duties.

Exceptions: willful or wanton misconduct or gross negligence.

Wyo. Stat. § 19-13-133, Emergency management volunteer
An emergency management volunteer attempting to comply with rules and provisions is not liable for death, injury, or damage to property as a result of volunteer activity or training.

Exceptions: willful misconduct, gross negligence or bad faith.