

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 1625

Session of  
1985

INTRODUCED BY FLICK, PIEVSKY, FOX, MAIALE, CIMINI, CHADWICK, HALUSKA, HASAY, NAHILL, DISTLER, GODSHALL, BATTISTO, MERRY, CARLSON, GLADECK, FARGO, VROON, ARGALL, GREENWOOD, J. L. WRIGHT, SCHEETZ, LANGTRY, BELFANTI, O'BRIEN, MARKOSEK, WILSON, A. C. FOSTER, JR., PITTS, DORR, CIVERA, FISCHER, BOWSER, SAURMAN, HERSHEY, MORRIS, NOYE, BUSH, E. Z. TAYLOR, COY, OLASZ, PHILLIPS, HOWLETT, PETRONE, VEON, RUDY, ROBBINS, KENNEY, MAYERNIK, COWELL AND MICOZZIE, SEPTEMBER 18, 1985

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 19, 1986

## AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, providing for A manager, <—  
3 coach, umpire or referee and nonprofit association ~~good~~ <—  
4 ~~Samaritan civil immunity~~ NEGLIGENCE STANDARD in the conduct <—  
5 of certain sports programs.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Title 42 of the Pennsylvania Consolidated  
9 Statutes is amended by adding a section to read:

10 § 8332.1. Manager, coach, umpire or referee and nonprofit  
11 association ~~good Samaritan civil immunity~~ NEGLIGENCE <—  
12 STANDARD.

13 (a) General rule.--Except as provided otherwise in this  
14 section, no person who, without compensation and as a volunteer,  
15 renders services as a manager, coach, INSTRUCTOR, umpire or <—  
16 referee or as an assistant to a manager or coach WHO, WITHOUT <—

1 COMPENSATION AND AS A VOLUNTEER, ASSISTS A MANAGER, COACH,  
2 INSTRUCTOR, UMPIRE OR REFEREE in a sports program of a nonprofit  
3 association, and no nonprofit association, or any officer or  
4 employee thereof, conducting OR SPONSORING a sports program, <—  
5 shall be liable to any person for any civil damages as a result  
6 of any acts or omissions in rendering such services or in  
7 conducting OR SPONSORING such sports program. The immunity <—  
8 conferred by this section shall not apply to any acts or  
9 omissions intentionally designed to harm or to any grossly  
10 negligent acts or omissions which result in harm to the person.

11 (b) Exception. Nothing in this section shall be construed  
12 UNLESS THE CONDUCT OF SUCH PERSON OR NONPROFIT ASSOCIATION FALLS <—  
13 SUBSTANTIALLY BELOW THE STANDARDS GENERALLY PRACTICED AND  
14 ACCEPTED IN LIKE CIRCUMSTANCES BY SIMILAR PERSONS OR SIMILAR  
15 NONPROFIT ASSOCIATIONS RENDERING SUCH SERVICES OR CONDUCTING OR  
16 SPONSORING SUCH SPORTS PROGRAMS AND UNLESS IT IS SHOWN THAT SUCH  
17 PERSON OR NONPROFIT ASSOCIATION DID AN ACT OR OMITTED THE DOING  
18 OF AN ACT WHICH SUCH PERSON OR NONPROFIT ASSOCIATION WAS UNDER A  
19 RECOGNIZED DUTY TO ANOTHER TO DO, KNOWING OR HAVING REASON TO  
20 KNOW THAT SUCH ACT OR OMISSION CREATED A SUBSTANTIAL RISK OF  
21 ACTUAL HARM TO THE PERSON OR PROPERTY OF ANOTHER. IT SHALL BE  
22 INSUFFICIENT TO IMPOSE LIABILITY TO ESTABLISH ONLY THAT THE  
23 CONDUCT OF SUCH PERSON OR NONPROFIT ASSOCIATION FELL BELOW  
24 ORDINARY STANDARDS OF CARE.

25 (B) EXCEPTIONS.--

26 (1) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS  
27 AFFECTING OR MODIFYING THE LIABILITY OF SUCH PERSON OR  
28 NONPROFIT ASSOCIATION FOR ANY OF THE FOLLOWING:

29 (I) ACTS OR OMISSIONS RELATING TO THE TRANSPORTATION  
30 OF PARTICIPANTS IN A SPORTS PROGRAM OR OTHERS TO OR FROM

A GAME, EVENT OR PRACTICE.

(II) ACTS OR OMISSIONS RELATING TO THE CARE AND  
MAINTENANCE OF REAL ESTATE UNRELATED TO THE PRACTICE OR  
PLAYING AREAS WHICH SUCH PERSONS OR NONPROFIT  
ASSOCIATIONS OWN, POSSESS OR CONTROL.

(2) NOTHING IN THIS SECTION SHALL BE CONSTRUED as  
affecting or modifying any existing legal basis for  
determining the liability, or any defense thereto, of any  
person not covered by the ~~immunity conferred~~ STANDARD OF  
NEGLIGENCE ESTABLISHED by this section.

(C) ASSUMPTION OF RISK OR CONTRIBUTORY FAULT.--NOTHING IN  
THIS SECTION SHALL BE CONSTRUED AS AFFECTING OR MODIFYING THE  
DOCTRINE OF ASSUMPTION OF RISK OR CONTRIBUTORY FAULT ON THE PART  
OF THE PARTICIPANT.

~~(e)~~ (D) Definitions.--As used in this section the following  
words and phrases shall have the meanings given to them in this  
subsection:

"Compensation." The term shall not include reimbursement for  
reasonable expenses actually incurred or to be incurred OR,  
SOLELY IN THE CASE OF UMPIRES OR REFEREES, A MODEST HONORARIUM.

"Nonprofit association." An entity which is organized as a  
nonprofit corporation or nonprofit unincorporated association  
under the laws of this Commonwealth or the United States or any  
entity which is authorized to do business in this Commonwealth  
as a nonprofit corporation or unincorporated association under  
the laws of this Commonwealth, including, but not limited to,  
youth or athletic associations, volunteer fire, ambulance,  
religious, charitable, fraternal, veterans, civic, county fair  
or agricultural associations, or any separately chartered  
auxiliary of the foregoing, if organized and operated on a

1 nonprofit basis.

2 "Sports program." Baseball (including softball), football,  
3 basketball, soccer and any other competitive sport formally  
4 recognized as a sport of BY THE UNITED STATES OLYMPIC COMMITTEE <—  
5 AS SPECIFIED BY AND UNDER THE JURISDICTION OF THE AMATEUR SPORTS  
6 ACT OF 1978 (PUBLIC LAW 95-606, 36 U.S.C. § 371 ET SEQ.), the  
7 Amateur Athletic Union or the National Collegiate Athletic  
8 Association. The term shall be limited to a program which is <—  
9 operated primarily for the recreational and athletic benefit of  
10 persons under 18 years of age. OR THAT PORTION OF A PROGRAM THAT <—  
11 IS ORGANIZED FOR RECREATIONAL PURPOSES AND WHOSE ACTIVITIES ARE  
12 SUBSTANTIALLY FOR SUCH PURPOSES AND WHICH IS PRIMARILY FOR  
13 PARTICIPANTS WHO ARE 18 YEARS OF AGE OR YOUNGER OR WHOSE 19TH  
14 BIRTHDAY OCCURS DURING THE YEAR OF PARTICIPATION OR THE  
15 COMPETITIVE SEASON, WHICHEVER IS LONGER. THERE SHALL, HOWEVER,  
16 BE NO AGE LIMITATION FOR PROGRAMS OPERATED FOR THE PHYSICALLY  
17 HANDICAPPED OR MENTALLY RETARDED.

18 Section 2. This act shall take effect in 60 days.