

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

—
S.P. 530 - L.D. 1312

An Act to Limit the Immunity of Charitable Organizations

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §158, as enacted by PL 1965, c. 513, §28, is amended to read:

§158. Damages for tortious conduct of charitable ~~corporations~~ organizations

A charitable organization ~~shall be~~ is considered to have waived its immunity from liability for negligence or any other tort during the period a policy of insurance is effective covering the liability of the charitable organization for negligence or any other tort. Each policy issued to a charitable organization ~~shall~~ must contain a provision to the effect that the insurer ~~shall be~~ is estopped from asserting, as a defense to any claim covered by ~~said~~ the policy, that ~~such~~ the organization is immune from liability on the ground that it is a charitable organization. ~~The~~ Except as provided in section 158-C, subsection 2, the amount of damages in any such case ~~shall~~ may not exceed the limits of coverage specified in the policy, and the courts shall abate any verdict in any such action to the extent that it exceeds ~~such~~ policy ~~limit~~ the limits.

Sec. 2. 14 MRSA §158-C is enacted to read:

§158-C. Limitation on immunity of charitable organizations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Charitable organization" has the same meaning as in section 158-B, subsection 3.

B. "Minor" means an individual who has not attained 18 years of age.

C. "Sexual assault or sexual exploitation of a minor" means any crime described in Title 17-A, chapters 11 or 12 against a minor.

2. Recoverable damages. Notwithstanding section 158, the amount of any insurance coverage specified in any policy issued to a charitable organization does not limit the amount of damages recoverable for any torts described in subsection 3.

3. Immunity not available for sexual assault or sexual exploitation of a minor. Notwithstanding any provision of law to the contrary, a charitable organization is not

immune from liability for any tort alleging negligent hiring, supervision or retention of an employee, agent or servant that arises out of sexual assault or sexual exploitation of a minor.

4. Immunity not available for intentional torts. A charitable organization is not immune from liability for intentional torts.

Sec. 3. Application. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act applies to any civil action or proceeding that is pending as of the effective date of this Act and applies retroactively to any tort described in Title 14, section 158-C that occurred prior to the effective date of this Act.