

State Liability Laws for Charitable Organizations and Volunteers

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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 of 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.