

MAINE STATE LEGISLATURE

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L.D. 320

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DATE: May 24, 1995

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JUDICIARY

Reported by: Senator MILLS of Somerset for the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A " to S.P. 128, L.D. 320, Bill, "An Act to Clarify Immunity from Civil Suit for Volunteer Activities"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there are a number of successful free medical clinics in this State that must rely on the ability of health care practitioners to volunteer their professional assistance; and

Whereas, unless the health care practitioners are in private practice, they must obtain separate malpractice insurance to cover their volunteer services; and

Whereas, immediate enactment of this legislation is necessary to prevent the loss of valuable services at these clinics; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

COMMITTEE AMENDMENT

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

4 **Sec. 1. 24 MRSA §2904**, as amended by PL 1989, c. 74, §1, is
6 further amended to read:

8 **§2904. Immunity from civil liability for volunteer activities**

10 Notwithstanding any inconsistent provision of any public or
12 private and special law, no licensed ~~physieian,--podiatrist--as~~
14 ~~defined-in-Title-32,-section-3551-or-dentist-as-defined-in-Title~~
16 ~~32,-section-1081,~~ health care practitioner as defined in section
18 2502 who voluntarily, without the expectation or receipt of
20 monetary or other compensation, provides professional services
22 within the scope of that ~~physieian's-or-podiatrist's~~ health care
24 practitioner's licensure to a nonprofit organization or to an
26 agency of the State or any political subdivision of the State or
to members or recipients of services of that organization or
state or local agency may be liable for damages or injuries
alleged to have been sustained by the person nor for damages for
the death of the person when the injuries or death are alleged to
have occurred by reason of an act or omission in the rendering of
professional services, unless it is established that the injuries
or the death were caused willfully, wantonly, recklessly or by
gross negligence of the ~~licensed-physieian-or-podiatrist~~ health
care practitioner.

28 **Emergency clause.** In view of the emergency cited in the
30 preamble, this Act takes effect when approved.'

32 Further amend the bill by inserting at the end before the
statement of fact the following:

34 **'FISCAL NOTE**

36 This bill may decrease the number of civil suits filed in
38 the court system. The Judicial Department may realize some minor
40 savings from reductions of workload and administrative costs
42 associated with the minimal number of cases that will no longer
be filed. Reductions in the collection of filing fees may
decrease General Fund revenue by minor amounts.'

44 **STATEMENT OF FACT**

46 This amendment provides that the limited immunity that is
48 currently provided to physicians, podiatrists and dentists who
volunteer their services at an agency of the State or a nonprofit
organization is extended to all licensed health care

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COMMITTEE AMENDMENT "A" to S.P. 128, L.D. 320

2 practitioners. The amendment also provides the same immunity to
health care professionals who provide volunteer services to an
agency of any county or municipality. The amendment adds an
4 emergency preamble, an emergency clause and a fiscal note to the
bill.