

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

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Legislative Document

No. 1312

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S.P. 530

In Senate, March 23, 2023

### **An Act to Limit the Immunity of Charitable Organizations**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BAILEY of York.  
Cosponsored by Representative GRAMLICH of Old Orchard Beach and  
Senator: CARNEY of Cumberland, Representative: RECKITT of South Portland.

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

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

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

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

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

15 **§158-C. Limitation on immunity of charitable organizations**

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

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

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

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

22 **2. Limitation on immunity of charitable organization.** A charitable organization is  
23 considered to have waived its immunity from liability for negligence or any other tort  
24 during the period a policy of insurance is effective covering the liability of the charitable  
25 organization for negligence or any other tort. Each policy issued to a charitable organization  
26 must contain a provision to the effect that the insurer is estopped from asserting, as a  
27 defense to any claim covered by the policy, that the organization is immune from liability  
28 on the ground that it is a charitable organization. The amount of damages in any such case  
29 may not exceed the limits of coverage specified in the policy, and the court shall abate any  
30 verdict in the case to the extent that it exceeds the limits, except that nothing in this chapter  
31 limits the amount of damages based on the amount of insurance coverage in cases of sexual  
32 assault of a minor or sexual exploitation of a minor.

33 **3. Immunity not available for sexual assault of a minor and sexual exploitation of**  
34 **a minor.** Notwithstanding subsection 2, a charitable organization is not immune from  
35 liability for any tort alleging negligent hiring, supervision or retention of an employee,  
36 agent or servant that arises out of sexual assault of a minor or sexual exploitation of a minor.

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

39 **Sec. 3. Application.** This Act applies to all civil actions pending as of the effective  
40 date of this Act.

**SUMMARY**

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This bill amends the state's immunity provisions related to charitable organizations to provide that it is not a defense or a means to limit damages for sexual assault of a minor or sexual exploitation of a minor.