

HOUSE BILL REPORT

HB 1092

As Reported By House Committee On:
Law & Justice

Title: An act relating to charitable donations for children.

Brief Description: Defining "distributing organization" for charitable donations to children.

Sponsors: Representatives Dyer, B. Thomas and Zellinsky.

Brief History:

Committee Activity:

Law & Justice: 1/22/97, 1/28/97 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff; Sherstad and Skinner.

Staff: Bill Perry (786-7123).

Background: At one time under the common law, an exception to the ordinary rules of tort liability existed for acts of charity. That is, if a person's negligent act of charity caused injury to another, the injured party generally could not recover damages. One rationale for the doctrine was the desire to encourage charitable giving. However, in 1964, the state supreme court abolished this doctrine of "charitable immunity." In abolishing the doctrine, the court stated that the absence of the doctrine in other jurisdictions did not seem to have reduced charitable giving, and therefore the doctrine was no longer needed. Since then, some charitable organizations that distribute items for needy children have expressed fear of potential liability.

In 1994, the Legislature restored a measure of immunity for charitable giving. Immunity from liability for ordinary negligence was provided for donors and distributing organizations that supply "children's items" to needy persons free of charge. The immunity extends to injuries resulting from the "nature, age, condition,

or packaging" of an item. Immunity does not extend to acts of gross negligence or to intentional misconduct.

Children's items include, but are not limited to, clothes, diapers, food, baby formula, cribs, playpens, car seat restraints, toys, high chairs, and books.

Distributing organizations that are covered by this 1994 law are defined as charitable nonprofit organizations under the federal Internal Revenue Code. Public health departments in some counties distribute children's items to needy persons free of charge. These public entities are not within the definition of "distributing organization."

Summary of Bill: Public health departments are added to the definition of "distributing organization" for purposes of providing immunity from liability for entities that distribute children's items to needy persons.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill will allow public health nurses to distribute free child car seats, in particular, which are required before newborns can be released from the hospital.

Testimony Against: None.

Testified: Representative Dyer, prime sponsor; and Karen Ridlon, Eastside Baby Corner (pro).