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TORTS

General Provisions: Provide Immunity from Liability for School Volunteers

CODE SECTION: O.C.G.A. § 51-1-30.3 (new)
 BILL NUMBER: SB 41
 ACT NUMBER: 1154
 SUMMARY: The Act provides public and private school volunteers with immunity from tort liability. A volunteer is defined as one who provides services for schools without compensation at the request of the school. This immunity exists for acts and omissions that occur either on school property or at a school-sponsored function. The Act provides immunity from liability for public or private schools that request or participate in providing the volunteer services, provided the school also does not receive compensation.
 EFFECTIVE DATE: July 1, 1993

History

Prior to the passage of this Act, local Parent-Teacher Associations (PTA) and their volunteers were the only entities that could be liable for harms or injuries occurring during school functions.¹ Understandably, parents were wary of volunteering due to the potential legal liability.² For example, local PTAs have experienced difficulties in finding parents to sit with students during lunch hours, escort children on field trips, and supervise other activities.³ The legislation was introduced to protect the volunteers involved in schools.⁴ This legislation will protect PTA workers⁵ and is designed to provide

1. Telephone Interview with Janice West, President of the Georgia Parent-Teacher Association (GPTA) (Mar. 29, 1994) [hereinafter West Interview]. The GPTA supported SB 41. *Id.*

2. *Id.*

3. Telephone Interview with Sen. Sallie Newbill, Senate District No. 56 (Mar. 22, 1994) [hereinafter Newbill Interview]; West Interview, *supra* note 1. Sen. Newbill was a co-sponsor of SB 41. Newbill Interview, *supra*.

4. Telephone Interview with Sen. Pam Glanton, Senate District No. 34 (Mar. 21, 1994) [hereinafter Glanton Interview]; Newbill Interview, *supra* note 3. Sen. Glanton was a cosponsor of SB 41. Glanton Interview, *supra*.

5. Glanton Interview, *supra* note 4.

reluctant parents with the “peace of mind” to become more active with the PTA.⁶

SB 41

The Act amends title 51 of the Code by adding Code section 51-1-30.3.⁷ The new section immunizes school volunteers from liability for injuries or harms occurring during their volunteer service.⁸ The Act also defines the scope of the immunity.⁹ The Act does not affect existing immunity, nor does it provide immunity against liability for injuries caused by gross negligence, or willful or wanton conduct.¹⁰

The Act defines those persons to whom immunity applies.¹¹ Covered persons are those who volunteer to provide services for a public or private school, “without the expectation or receipt of compensation.”¹² Likewise, the school cannot expect or receive compensation for the volunteer’s services.¹³ Thus, for the immunity to apply, neither the volunteer nor the school may receive any funds from the beneficiary of these volunteer services.¹⁴ Schools are further covered by language exempting any school “which requests, sponsors, or participates” in the volunteer services.¹⁵

Neither schools nor volunteers “shall be liable for damages or injuries alleged to have been sustained by another person” when the injuries allegedly occurred by “reason of an act or omission occurring on school property in the rendering of such services if such services are provided upon school property or at a school sponsored function.”¹⁶ Covered persons are also immunized from liability for wrongful death.¹⁷ The immunity exists if the volunteer services are provided on school property itself or at a school-sponsored function.¹⁸ Comprehensive coverage is important because many activities that require volunteer services occur away from school grounds.¹⁹

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- 6. West Interview, *supra* note 1.
 - 7. O.C.G.A. § 51-1-30.3 (Supp. 1994).
 - 8. *Id.*
 - 9. *Id.* § 51-1-30.3(a) (Supp. 1994).
 - 10. *Id.*
 - 11. *Id.*
 - 12. *Id.* § 51-1-30.3(a)(1) (Supp. 1994).
 - 13. *Id.*
 - 14. *Id.*
 - 15. *Id.* § 51-1-30.3(a)(2) (Supp. 1994).
 - 16. *Id.* § 51-1-30.3(a) (Supp. 1994).
 - 17. *Id.*
 - 18. *Id.*
 - 19. West Interview, *supra* note 1.

The bill, as proposed, did not provide immunity to private schools or their volunteers.²⁰ The Senate Judiciary Committee added the “private school” language to cover all possible school volunteers²¹ and added the section excluding motor vehicle incidents from coverage.²² The Senate Judiciary Committee wanted to exclude only “persons licensed to practice medicine” from the immunity.²³ However, the Senate Judiciary’s proposed amendment was changed on the Senate floor to exclude all persons “performing tasks associated with their normal or ordinary course of business or their trade or profession.”²⁴ The Act excludes all professionals, not just medical licensees.²⁵ The rationale for subjecting these persons to liability is that these persons may benefit from their volunteer service indirectly, and that their expertise ensures against accidents.²⁶

This Act is effective for all occurrences on or after July 1, 1993.²⁷

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20. SB 41, as introduced, 1994 Ga. Gen. Assem.

21. SB 41 (SCS), 1994 Ga. Gen. Assem. Private schools were added for equitable reasons. Newbill Interview, *supra* note 3.

22. SB 41 (SCS), 1994 Ga. Gen. Assem.; O.C.G.A. § 51-1-30.3(b) (Supp. 1994). The Act’s sponsors did not intend to affect criminal liability. Including motor vehicles in the Act would have led to arguments seeking the extension of civil immunity to criminal charges. Newbill Interview, *supra* note 3.

23. SB 41 (SCS), 1994 Ga. Gen. Assem. Medical doctors are believed to have the training and expertise to ensure against accidents. Newbill Interview, *supra* note 3.

24. SB 41 (SCSFA), 1994 Ga. Gen. Assem. Professional expertise as well as medical expertise is deemed to insure against accidents. Newbill Interview, *supra* note 3.

25. O.C.G.A. § 51-1-30.3(c) (Supp. 1994).

26. Newbill Interview, *supra* note 3.

27. *Id.* § 51-1-30.3(d) (Supp. 1994).