



Montana High School Association

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Submitted Testimony

House Judiciary Committee

Senate Bill 4, March 2, 2011

Mark Beckman, Executive Director – Montana High School Association (MHSA) and
Commissioner of the Montana Officials Association (MOA)

Representative Peterson and members of the committee, my name is Mark Beckman and I am the Executive Director of the Montana High School Association and also serve as the Commissioner of the Montana Officials Association (MOA). I am unable to appear in person today as I am traveling to Bozeman to manage the Class A State Boys' Basketball Tournament at MSU.

The mission of the MOA is to advance and to sustain fair, competent and ethical officiating while providing safe competition at all levels of Montana's interscholastic athletic activities. The 1,690 members of the MOA and the 179 MHSA member high schools are in support of Senator Lewis's bill providing immunity from civil liability for sport officials. Officials, by state law, are independent contractors and the passage of this bill would protect both the schools as the employer, and the officials as independent contractors, from unreasonable or trifling lawsuits filed when emotions are running high and a party wants to blame the game officials for a loss etc.

Officials train and study extremely hard for the particular sport(s) they officiate. They are required to meet in weekly study clubs, view a yearly online rules clinic, complete mechanics training, test to upgrade and be evaluated by their local pool. Officials are competent, dedicated individuals who officiate not for the money but for the love of their avocation. These individuals provide an essential service for high school sporting events. There is a shortage of sports officials in this state and throughout the nation and passage of this bill would help in recruiting and retaining officials because the threat of unfounded lawsuits would not exist.

Appropriately, the bill does not provide blanket immunity because the official can still be held liable if injury or damage was sustained because of gross negligence or the willful, wanton, or intentional action or inaction of the official in the athletic contest.

On behalf of the 179 MHSA member high schools and the 1,690 MOA members, I encourage your support for the passage of Senate Bill 4. I would like to thank Senator Lewis for introducing this important bill and thank you, Representative Peterson, and members of the House Judiciary Committee for your time and for your consideration of this bill.

SPECIAL REPORT



THE NATIONAL ASSOCIATION OF SPORTS OFFICIALS

LIMITED LIABILITY FOR SPORTS OFFICIALS

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Racine, Wis.**

Special Report: Limited Liability For Sports Officials was written by Steven Ellinger.

The author who prepared this Special Report was selected for his knowledge and experience in the subject area. Material contained in this Special Report was current and applicable at the time of publishing. If you become aware of inaccuracies in the Special Report, learn of new legislation, or learn of changes in existing legislation discussed in this Special Report, please contact Bob Still at NASO. Telephone: 262/632-5448. Fax: 262/632-5460. E-mail: bstill@naso.org.

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Sports Officials Legislative Scorecard

Has your state passed laws pertaining to assault on officials, officials' liability or independent contractor status? These three laws impact sports officials the most. NASO has compiled a scorecard to help you realize the importance of addressing these topics.

Sports officials should be able to perform their duties without threat of personal injury, administrative hearings or penalties because of their game calls. Being an independent contractor is a great benefit. State legislators can show support for the men and women who officiate on the courts and fields by passing laws to protect them.

NASO has been bringing attention to these issues for years. The 2010 legislative session for 2011, displays the states that have passed laws dealing with these issues. There are currently 21 states that have officiating assault laws (including 19 with criminal fines and two with civil penalties). There are 11 states with legislation and 13 states with independent contractor laws. How does your state score? If there is work to be done, you can get involved.

Get Involved With Legislation in Your State

Since 1984, when NASO first submitted model legislation regarding assault against officials, members and legislators have used such models to construct their own legislative bills.

There are a few steps you can take to get the job done. Each state handles legislation differently, and it is up to the local constituency to make the process effectively. It is NASO's goal that individual members utilize the proposed legislative models to lobby their legislators. Before you do anything else, it is a good idea to do some research. Request an NASO Assault Legislation Packet and visit www.naso.org to find out what specific legislation is in place. And if you are not sure, please contact your legislator.

1. Contact your local association. Share with your association what other districts have done in terms of legislation. Move forward as a united group.

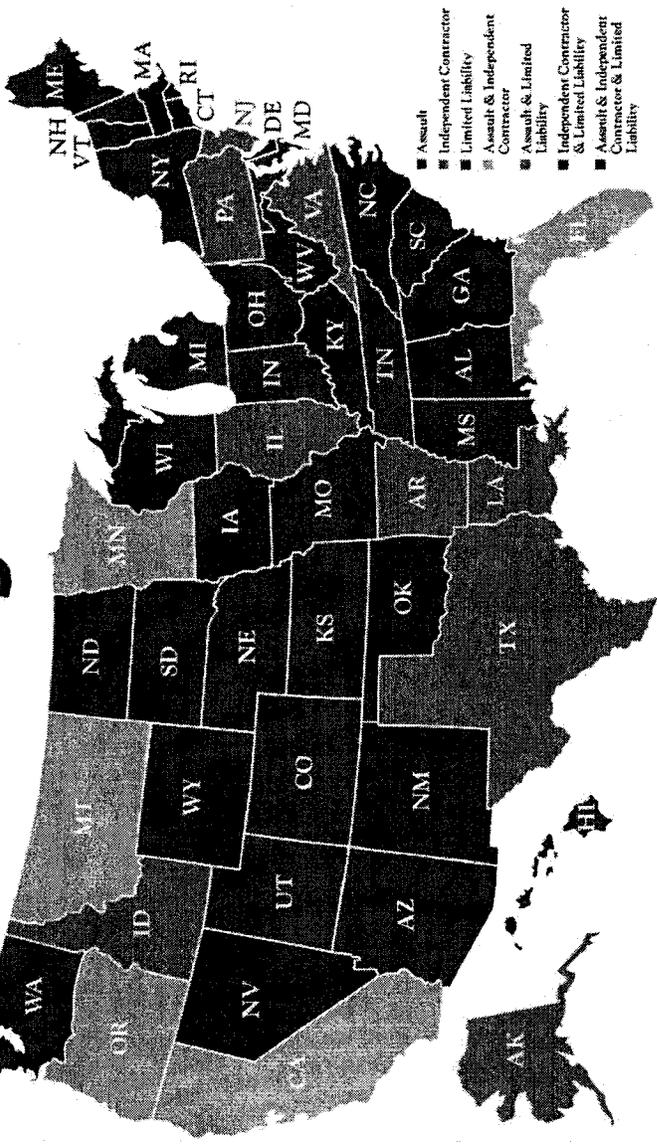
2. Choose a position. Ask members of your association to help with the legislative process. Your membership is the key.

New York Assault Bill Doesn't Get Past Codes
 Despite having the backing of NASO and a New York official who was assaulted last October, New York's assault bill (A829) still sits on the Assembly's Codes Committee. The bill has been in the same file for nearly two years. The bill was introduced by Peter McCabe Jr. in 2008, but it has not moved forward since then. The bill is currently in the Codes Committee, which is responsible for reviewing bills before they are sent to the Assembly floor. The bill has been in the same file for nearly two years.

Peter McCabe Jr. was assaulted after a football game at Esplanade Park in Rochester, N.Y. last fall. Leon Woodie, a player on the Western New York Chargers, was charged with assaulting McCabe. The bill would amend the Penal Law to make it a misdemeanor to assault a sports official who is acting in the course of his or her duties. The bill would also make it a misdemeanor to assault a sports official who is acting in the course of his or her duties. The bill would also make it a misdemeanor to assault a sports official who is acting in the course of his or her duties.

The bill would have made it easier for criminal charges to be brought against those who assault sports officials. The bill would have made it easier for criminal charges to be brought against those who assault sports officials. The bill would have made it easier for criminal charges to be brought against those who assault sports officials. The bill would have made it easier for criminal charges to be brought against those who assault sports officials.

NASO President Barry Meno on behalf of NASO sent letters of support for the bill to all New York legislators and Assembly representatives. NASO received 18 letters of support from New York legislators and members of the Assembly. The bill did not get the support needed to pass for the assault bill in legislation session.



Tennessee Assault Bills Remain In Committee

Members of the Tennessee General Assembly introduced legislation that calls for tougher penalties for those who assault sports officials. The bills are Senate Bill 3763 and House Bill 3029. The bills were introduced in the Tennessee House and Senate on April 14, 2011. The bills were assigned to the Senate Judiciary Committee. The bills were assigned to the Senate Judiciary Committee. The bills were assigned to the Senate Judiciary Committee.

Senator Dewayne Burch (R-Cherokee) introduced the Senate bill. The bill would increase the penalty for assaulting a sports official from a misdemeanor to a felony. The bill would also make it a felony to assault a sports official who is acting in the course of his or her duties. The bill would also make it a felony to assault a sports official who is acting in the course of his or her duties.

Assault Legislation Packets Are Available

The NASO Assault Legislation Packet is available by request free of charge to NASO members. The packet contains information about the states that have passed legislation. The packet contains information about the states that have passed legislation. The packet contains information about the states that have passed legislation.

If your state does not have tougher laws, you can make a difference. To request a packet, contact NASO at www.naso.org or call 352-633-5448. The packet is available through the website at www.naso.org.

3. Gather Information, Gather and Present Information to Legislators About

Legislators need to know what has happened in your state. They need to know what has happened in your state. They need to know what has happened in your state. They need to know what has happened in your state.

4. Get on the phone or web. Contact your legislators directly and ask to meet with them to present a packet of information that may help to pass the legislation.

SPECIAL REPORT: LIMITED LIABILITY FOR SPORTS OFFICIALS

I. INTRODUCTION

Sports officials who officiate youth and amateur sports sometimes find themselves in court facing lawsuits arising out of their officiating actions. They may often times incur tort liability as a result of their actions or inactions on the playing field. The mere threat of a lawsuit is sometimes enough to deter people from officiating and thus directly affects the ability of schools and municipalities to provide interscholastic and amateur athletic programs. Once considered frivolous, lawsuits alleging negligence by a sports official are prevalent today. Injured athletes are increasingly looking toward sports officials for damages. When athletic competition breeds litigation, sports officials often become unwitting participants in the lawsuit.

II. NEGLIGENCE CLAIMS

There are two areas in which suits against sports officials have been filed. The first is for personal injuries in which the sports official is sued for negligence. Negligence claims can arise based on an official's failure to: inspect the playing field; control the game; keep the playing area free of equipment and spectators; stop a game because of inclement weather conditions; inspect equipment; protect and warn participants;

The second area in which suits against officials have been filed is the judicial review of a sports official's decision on the playing field.

In the area of personal injuries, an example might be an injured player contending that a referee should have inspected the playing field for holes or other dangerous field conditions. In Cap v. Bound Brook Board of Education, N.J., Sup. Ct., Cape

May Co., Somerset City (1984), high school football officials were sued for permitting a game to be played on a field that was in an unsafe and unplayable condition, resulting in a player becoming paralyzed following an injury sustained during the game. The case was dismissed against the officials and settled with the other defendants.

Another negligence claim may occur when the sports official fails to keep the playing area free of equipment. Did you ever see a player trip, fall and be injured by a ball or bat left on a baseball field?

In Smith v. National Football League, 593 U.S. F.2d 1173 (D.C. Cir. 1976), aff'g 420 F. Supp. 738 (D.D.C. 1976), Bubba Smith, an All-Pro and former NFL Lineman-of-the Year, sued the head linesman and one of the down marker attendants, along with the Tampa Bay Sports Authority and the NFL for \$2.5 million. Smith alleged that a collision he had with the down marker caused a serious injury that ended his career. He claimed that the collision was a result of neglect on the part of the defendants, including the failure of the head linesman to properly supervise and move the markers, and the use of dangerous equipment. The jury in the case's second trial found no liability on the part of the defendants, after an earlier mistrial because the jury was unable to reach a verdict.

A third potential negligence suit might arise from a claim that the officials did not protect the spectators. An injured spectator might claim that the sports official should have stopped play on the field and warned the spectators to move away from the playing area. A player who is injured running into a spectator might claim that the sports official should have moved the spectators farther away from the playing area.

The fourth area for potential negligence claims involves weather conditions. The injured player may contend that a sports official should not have started the game because of inclement weather conditions or that the game should have been stopped.

The fifth area for potential negligence claims involves equipment which causes injury to a player. The claim here is that

the sports official has a responsibility to prevent a player from participating in a contest if the player's equipment is obviously ill-fitting or poses an unreasonable risk of injury to other players.

One area that might result in successful litigation is when a sports official fails to enforce a safety rule, especially a safety rule such as the rule which prohibits a player from wearing jewelry in basketball.

What about when a player does not wear protective equipment, even when the wearing of such equipment is not mandated by rule? In Nash v. Borough of Wildwood Crest, N.J. Sup. Ct., Cape May Co., Docket No. 1-6624-77 (1983), a catcher in a slow-pitch softball recreational game sustained an injury when he was struck in the eye by a softball while catching without wearing a protective mask. The playing rules did not require him to wear a mask. The player sued the umpire, alleging that the umpire should have given him his mask and then umpired from behind the pitching mound instead of from behind home plate. The case was settled prior to trial with the plaintiff receiving \$24,000.

The final area for potential negligence claims is a claim that the sports official did not properly enforce the playing rules. An example would be when an injured player alleges that a basketball referee failed to control the game by not calling fouls or technical fouls, leading to a much rougher game, and resulting in the player's injuries. In Pantalowe v. Lenape Valley Regional High School, N.J. Sup. Ct., Sussex Co., Docket No. L40828-26 (1976), a high school wrestling referee was sued for allegedly allowing a wrestler to continue an illegal hold on his opponent, resulting in a paralyzing injury. The case was settled prior to trial.

Historically, courts have found that lawsuits against officials arising from an injured party's participation in a sporting event are only actionable if the injured party demonstrates recklessness, willfulness, intentional misconduct, malice, or wanton conduct on behalf of the official. Athletes who engage in recreational or sports activities are generally deemed to assume the ordinary risks of the activity, and cannot recover for any injury unless it can be shown that the official's conduct was reckless or intentional.

III. Judicial Review Of Sports Officials' Playing Field Decisions

Seldom do sports officials find themselves in court defending an on-field decision, whether that be a judgmental error or the misapplication of a rule. Plaintiffs generally have not been successful in this area, and courts will most likely continue to be reluctant in becoming involved in decisions on the playing field unless there is some proof of fraud, bad faith, or corruption.

In Georgia High School Assn. v. Waddell, 285 S.E.2d 7 (Ga. Sup. Ct. 198 1), the Georgia Supreme Court ruled that it does not possess authority to review the decision of a high school referee. The referee admitted that he made an error in not awarding an automatic first down on a roughing the kicker penalty, which might have been determinative of the final outcome of the game. The trial court had overturned the referee's ruling based on the school's property right in the football game being played according to the rules. The trial court ordered the game to be replayed from the point of the referee's error. The Georgia Supreme Court reversed, stating: "We now go further and hold that courts of equity in this state are without authority to review decisions of football referees because those decisions do not present judicial controversies."

In Tilelli v. Christenbery, 1 Misc. 139,120 N.Y.S. 2d 697 (Sup. Ct 1953), a New York court upheld the decision of a boxing referee and a ringside judge. The New York Athletic Commission had ordered that the voting card of the judge, who they suspected was involved in an illegal gambling scheme, be changed. The court recognized that the commission had the authority to change the decision of the referee and the judges, but pointed out that such authority could not be exercised in an arbitrary, unrestricted, or unsupported fashion. The court stated that judges and referees possess specialized skills and experience which are essential, because the scoring of a prize fight is not a routine or mathematical process, but instead one which is influenced by numerous factors. In light of these factors, the court held that the commission's allegation that one of the judges had failed to follow the proper standards was so vague as

to be meaningless. The court overruled the Commission and held that the suspicion of illegality was not sufficient grounds for the court to intercede in the decision and substitute its decision for that of the assigned judge.

In Wellsville-Middleton School District v. Miles, (Mo. Cir. Ct., 1982) (unreported), a school district filed suit against the Missouri State High School Activities Association, claiming that the official scorer in a state tournament basketball game had made a scoring mistake which ultimately led to the plaintiff's team losing the contest. The court dismissed the case for failure to state a claim.

In a companion case, Wellsville-Middleton School District v. Miles, Docket No. 406570 (Mo. Cir. Ct., 1982), three student-athletes filed suit claiming that the referee was negligent in not following the proper procedures in the game, thus affecting their opportunity to secure college athletic scholarships. The players dropped their suit following the dismissal of the companion suit.

In Bain v. Gillespie, 357 N.W.2d 47 (Iowa App. 1984), Jim Bain, a Big Ten Conference basketball referee, made a controversial call late in the Big Ten Conference basketball championship game between the University of Iowa and Purdue University that allowed a Purdue player to make a free throw that gave Purdue a last-minute victory. Some fans of the University of Iowa team blamed Bain for their team's loss, claiming that the foul was clearly in error. John and Karen Gillespie operated a novelty store in Iowa City specializing in University of Iowa sporting goods and souvenirs. The store was known as Hawkeye John's Trading Post and had no association with the University of Iowa or its sports program.

A few days after the controversial game, the Gillespie's sold t-shirts showing a man with a rope around his neck with the caption, "Jim Bain Fan Club." Bain filed suit against the Gillespies for monetary damages as well as for a court order prohibiting the Gillespie's from selling t-shirts with Bain's likeness. The Gillespies countersued, alleging that Bain's conduct in officiating the game was below the standard of

competence required of a professional referee. The Gillespies claimed that Bain's malpractice caused Purdue to eliminate Iowa from the championship of the Big Ten Conference, thereby destroying a potential market for the Gillespies memorabilia touting Iowa as the Big Ten champion. The Gillespies further claimed that Bain's actions caused them loss of earnings and business advantage, emotional distress and anxiety, loss of good will, and expectancy of profits. The court granted Bain's request and issued an order prohibiting the Gillespies from selling t-shirts with Bain's likeness.

"It is beyond credulity that Bain, while refereeing a game, must make his calls at all times perceiving that a wrong call will injure (the) Gillespie's business ... and subject him to liability," the court ruled. The court went on to say that referees were in the business of applying rules in athletic contests, not in creating a marketplace for people like the Gillespies. "Heaven knows what uncharted morass the court would find itself in if it were to hold that an athletic official subjects himself to liability every time he might make a questionable call. The possibilities are mind boggling."

IV. Protection From Litigation

Sports officials can help to protect themselves from possible litigation by following the checklist below:

1. Inspecting the playing surface and adjacent areas for hazards prior to the game.
2. Determining if weather conditions are appropriate for beginning or continuing the game.
3. Inspecting game equipment prior to and during the game.
4. Inspecting players' equipment for safety and compliance with game rules prior to the game.
5. Controlling the game and properly enforcing playing rules.

Limiting the personal liability of youth and amateur sports officials is becoming more important in today's litigious society. Players will get injured in games and fans will continue to be upset when their teams lose.

NASO believes that sports officials, however, should not be

held accountable unless their actions are grossly negligent. Furthermore, it is important in NASO's view that young people should be encouraged to become youth and amateur sports officials.

In an effort to protect sports officials from personal liability, NASO has drafted model legislation which would provide sports officials liability protection by granting them immunity or limited immunity from lawsuits arising out of their officiating pursuits unless the official is found to have intentionally injured a person or acted in a grossly negligent manner. With the need for qualified officials to officiate youth sports events, it is extremely important that officials have some form of protection from personal liability.

V. Model Legislation

Since 1987, NASO has provided the following model for grassroots efforts to enact legislation protecting sports officials.

Originally drafted by Mel Narol, an attorney from New Jersey and special advisor to the NASO board of directors, the model has been revised by some states. This model provides a beginning point for consideration of such legislation. Hopefully, this report and this model legislation prove helpful to those who wish or need to use it.

Limited Civil Liability for Sports Officials

Section 1. Sports officials who officiate athletic contests at any level of competition in this State shall not be liable to any person or entity in any civil action for injuries or damages claimed to have arisen by virtue of actions or inactions related in any manner to officiating duties within the confines of the athletic facility at which the athletic contest is played.

Section 2. Sports officials are defined as those individuals who serve as referees, umpires, linesmen, and those who serve in similar capacities but may be known by other titles and are duly registered as members of a local, state, regional, or national organization which is engaged in providing education and training to sports officials.

Section 3. Nothing in this law shall be deemed to grant the protection set forth to sports officials who cause injury or damage to a person or entity by actions or inactions which are intentional, willful, wanton, reckless, malicious, or grossly negligent.

Section 4. This law shall take effect immediately, and shall apply to all lawsuits filed after the effective date of this law, including those which allege actions or inactions of sports officials which occurred prior to the effective date of this law.

VI. States Which Have Adopted Limited Liability Legislation

1) Arkansas

Ark. Stat. Ann. Sec. 16-120-102

This legislation, signed into law by then Governor William Clinton in 1987, was the first such legislation passed in the United States. It provides that athletic officials, during the officiating of any amateur athletic contest being conducted under the auspices of a nonprofit or governmental entity, shall not be held personally liable for damages to a player, participant, or spectator as a result of acts of commission or omission arising out of officiating duties and activities. The athletic official shall only be liable in damages to player, participant, or spectator if the sports official acts in a malicious, willful, wanton, or grossly negligent manner.

2) Delaware

Del. Code Ann. 16-6835 et seq.

This statute exempts uncompensated umpires and referees who render services as a member of a qualified staff of a nonprofit sports program from liability for negligent acts or omissions which occur in the performance of their officiating duties. This exemption from liability applies to the extent that the injured person's damages exceed either existing liability insurance coverage applicable to the negligent act or omission or the minimum liability insurance coverage required by law if no coverage for the negligent act or omission exists.

3) Georgia

Ga. Code Ann. Sec. 51-141

This statute exempts sports officials from liability to any person for damages arising out of action or inaction related to officiating duties which occur within the confines of the athletic facility at which the athletic contest is played. For an official to receive the protection of this statute, the official must be registered with or a member of a local, state, regional, or national organization which is engaged in part in providing education and training to sports officials. Officials who intentionally, willfully, wantonly, recklessly, maliciously, or in a grossly negligent manner cause injury or damage to a person are excluded from protection under this statute.

4) Illinois

745 ILCS 80

This statute exempts persons who officiate without compensation, or who receive a "modest honorarium" for their officiating services in a sports program of a nonprofit association, from damages as a result of any acts or omissions committed while officiating, unless the official's conduct "falls substantially below the standards generally practiced ... in like circumstances by similar persons rendering such services."

5) Louisiana

LSA-R-S. 9:2798

This statute exempts volunteer officials for loss or damage caused by an official's negligent act or omission. In order to receive the protection under this statute, the official must have participated in a safety orientation and training program established by the league or association, but participation in the safety program may be waived upon proof of the official's proficiency in first aid and safety. An official who has been tested, trained, sanctioned, or admitted by a recognized league or association is deemed to be in compliance with the statute.

6) Maryland

Ann- Code of Maryland (Courts & Judicial Proceedings) Sec. 5-802

This statute provides limited immunity for sports officials who work in "community recreation programs" and in "an interscholastic, intercollegiate, or any other amateur athletic contest conducted by a non-profit or governmental body." The law does not exempt sports officials from charges stemming from their willful, wanton, or grossly negligent acts or omissions.

7) Massachusetts

Mass. Gen. Laws Ann. Ch. 23 1, Sec. 85V

This statute provides that a volunteer who renders services as an umpire or referee in a sports program of a nonprofit association is not liable for injuries or damages sustained by another person as a result of the official's act or failure to act in rendering such officiating services. The immunity conferred by this statute does not extend to intentional or grossly negligent acts committed by the official. While the statute also applies to volunteer coaches and managers who serve without compensation, referees and umpires are allowed to receive a "modest honorarium" for their services and still receive protection under the statute.

8) Mississippi

Miss. Code Ann. Sec. 95-9 *et seq.*

This statute mirrors the NASO model legislation and exempts from liability "duly registered" sports officials who officiate athletic contests at any level of competition for injuries or damages claimed to have arisen by virtue of actions or inactions related in any manner to officiating duties within the confines of the athletic facility at which the game is being played. Actions which are intentional, willful, wanton, reckless, malicious, or grossly negligent are not protected under the statute.

9) Nevada

NRS 41.630

This statute grants immunity to a sports official at any level of competition, amateur or professional, for unintended acts or omissions not amounting to gross negligence arising out of the official's duties, provided that the act or omission occurs within the facility where the sporting event takes place.

10) New Jersey

N.J. Stat. Ann. Sec. 2A:62A-6

This statute provides that sports officials cannot be liable for damages sustained by any person in a game played under the jurisdiction of the New Jersey State Interscholastic Athletic Association or for a public entity unless the official acts in a willful, wanton, or grossly negligent manner. In order to receive the protection of this statute, the official must be accredited as a sports official by a voluntary association.

11) North Dakota

N.D. Cent. Code Sec. 32-03-46

This statute provides immunity from liability to a player or participant for officials who officiate free of charge for a sports team which is organized pursuant to a nonprofit charter. In order to receive the protection of the statute, the official must have participated in a safety orientation and training program established by the league. The statute does not cover officials who officiate in a public or private educational institution's athletic program.

12) Ohio

Anderson's Ohio Revised Code Sec. 2305.381

This statute provides qualified limited immunity from liability to an official for injury or loss sustained by a player or participant as long as the act or omission on the part of the official is not willful, wanton, or intentional. In order to qualify for protection under this statute, the official must have completed a six-hour safety orientation and safety program.

13) Pennsylvania

42 Pa.C.S.A. Sec. 8332.1

This statute provides immunity from liability for volunteer officials who officiate in a sports program of a nonprofit association unless the official's conduct falls substantially below the standards generally practiced by other officials.

14) Rhode Island**R.I. Gen Laws Sec. 9-1-48**

This statute grants an exemption from liability to volunteer sports officials in a youth sports program organized or conducted by a nonprofit corporation, unless the official's acts are in willful, wanton, or reckless disregard for the safety of the participants in the youth sports program. The statute also covers officials who officiate in an interscholastic or intramural sports program organized and conducted in accordance with and subject to the rules, regulations and jurisdiction of the Rhode Island Interscholastic League.

15) Tennessee**Tennessee Code Annotated Sec. 62-50-201, et. seq.**

This statute grants a sports official immunity from liability for damages to a player, participant, or spectator as a result of the official's act or omission arising out of the official's duties. The statute does not grant immunity for intentional or grossly negligent acts. The official must be registered as a member of a local, state, regional, or national organization which provides training and education to officials in order to receive protection under this statute.

★ Texas**Tex. Civ. Prac. & Rem. Code Ann. Sec. 84.001, et. seq.**

This statute, the Charitable Immunity and Liability Act, does not specifically mention immunizing sports officials from liability. It includes as a charitable organization a "youth sports and youth recreational, or educational organization ... organized and operated exclusively for the promotion of social welfare by being primarily engaged in promoting the common good and

general welfare of the people in a community.” A “volunteer” is described as “a person rendering services for or on behalf of a charitable organization who does not receive compensation in excess of reimbursement for expenses incurred ...” The Act grants the volunteer immunity from civil liability for any act or omission resulting in death, damage, or injury if the volunteer acts in good faith and in the course and scope of his duties or functions with the organization. Arguably, a sports official could fit into one of these definitions, provided the sports official is not compensated for his or her services other than expense reimbursement.

★ **Federal**

42 United States Code Annotated Sec. 14501

This statute protects volunteers from liability in the performance of services for a non-profit organization or governmental entity. This statute is designed to protect persons who serve on boards of directors of non-profit organizations, and it is unlikely it would protect officials from liability for claims made which arise out of an official's duties.

VII. CONCLUSION

There is a general judicial reluctance to interfere with the outcome of sports events unless there is a showing of bad faith, fraud, or corruption. This same line of reasoning has been followed in not holding sports officials personally liable for monetary damages resulting from officiating mistakes. Both of these positions are based on the belief that a sports official's immediate reactions and decisions warrant more credence than the remote observations of a court.

As the trial court stated in Bain: "Heaven knows what uncharted morass a court would find itself in if it were to hold that an athletic official subjects himself to liability every time he might make a questionable call. The possibilities are mind-boggling." Fortunately for officials, this court recognized that "there is no tortious doctrine of athletic official's malpractice ..."

Sports officials should be held liable for their actions if they act recklessly or with gross negligence. Limited liability legislation can stem the growing number of lawsuits filed against sports officials. While such lawsuits will still likely be filed by injured players, in states which have adopted this type of legislation, the higher burden of proof required in order for a player to prevail should cause that number to decrease.

Insurance coverage should not be depended upon for protection of officials from the threat of litigation. Limited liability legislation, if properly drafted, will give sports officials the protection they need from the threat of litigation and frivolous lawsuits.

Most states give some form of limited liability to school districts, coaches, athletic directors, and municipalities. NASO's goal with the model legislation is to provide liability protection to sports officials, many of whom have a real concern about being taken to court for incidents arising out of their officiating activities.