

**2023 HOUSE JUDICIARY**

**HB 1284**

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

HB 1284  
2/1/2023

Relating to liability limitations of charitable organizations; to provide an effective date; and to declare an emergency.
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Chairman Klemin opened the hearing on HB 1284 at 11:00 AM. Members present: Chairman Klemin , Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, Rep. Vetter

## **Discussion Topics:**

- Liability caps
- Effective dates
- Definition of charitable organizations

Rep. Pyle: Introduced the bill. Testimony #18027

Jaclyn Hall, Executive Director, ND Association for Justice: Testimony #18336

## **Additional written testimony:**

Glendon Philbrick, Advocate for survivors of child abuse: Testimony #18418

Hearing closed at 11:14 AM.

Delores Shimek, Committee Clerk

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

HB 1284  
2/1/2023

Relating to liability limitations of charitable organizations; to provide an effective date; and to declare an emergency.
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Chairman Klemin opened the meeting on HB 1282 at 2:55 PM. Members present: Chairman Klemin , Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, Rep. Vetter

### Discussion Topics:

- Liability insurance
- Committee Work

Rep. Shannon Roers Jones moved a Do Pass;  
Seconded by Rep. Vetter

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	A
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	A
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll Call Vote: 11 Yes 0 No 2 Absent Carrier: Rep. Karls

Meeting closed at 2:59 PM.

Delores Shimek, Committee Clerk

**REPORT OF STANDING COMMITTEE**

**HB 1284: Judiciary Committee (Rep. Klemin, Chairman)** recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1284 was placed on the Eleventh order on the calendar.

**2023 SENATE JUDICIARY**

**HB 1284**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

HB 1284  
3/28/2023

A bill relating to liability limitations of charitable organizations; to provide an effective date; and to declare an emergency.
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10:01 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estenson, Braunberger and Paulson are present. Senator Sickler is absent.

## **Discussion Topics:**

- Revenue streams
- Insurance coverages
- Scope of employment
- Employment concerns

10:01 AM Representative Pyle introduced the bill and provided written testimony #26790.

10:04 AM Jaclyn Hall, Executive Director, North Dakota Association for Justice, testified in favor of the bill and provided written testimony #26809.

10:28 AM Dana Hagar, North Dakota Association of Non-Profits Association, spoke opposed to the bill.

10:29 Carol Two Eagles spoke opposed to the bill.

10:33 AM Chairman Larson closed the public hearing.

12:29 AM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

HB 1284  
4/3/2023

A bill relating to liability limitations of charitable organizations; to provide an effective date; and to declare an emergency.
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9:19 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Braunberger and Paulson are present.

### Discussion Topics:

- Committee action
- Payout caps

9:19 AM The committee has discussion on the bill.

9:25 AM Senator Braunberger moved to Do Pass the bill. Motion is seconded by Senator Myrdal.

9:26 AM Roll call vote was taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

Senator Braunberger will carry the bill.

This bill does not affect workforce development.

9:29 AM Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1284: Judiciary Committee (Sen. Larson, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1284 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.



**TESTIMONY**

**HB 1284**



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Brandy Pyle

District 22  
P.O. Box 337  
Casselton, ND 58012-0337  
[bpyle@ndlegis.gov](mailto:bpyle@ndlegis.gov)

**COMMITTEES:**  
Appropriations

February 1, 2023

Good morning, Chair Klemin and Judiciary Committee. For the record I am Brandy Pyle from District 22. I am here to introduce HB 1284. This proposed legislation is intended to increase the liability charitable organization for money damages for a personal injury or property damage proximately caused by the negligence or wrongful act or omission of an employee acting within the employee's scope of employment.

This would slowly increase the liability to \$375,000 per person up from \$250,000 first in July 2023.

Then, increase to \$406,250 per person and \$1,625,000 for a single occurrence in 2025.

The next increase then would be July 1, 2026 to \$437,500 per person and \$1,750,000 for any single occurrence.

Then the final increase would take place on July 1, 2027 for \$468,750 per person and \$1,875,000 per occurrence.

Section 2 changes the amount to \$500,000 per person and \$2,000,000 per occurrence in 2029.

So, section one has an emergency clause on it for it to begin before the end of the biennium, and section two becomes effective July 1, 2029.

This incremental increase is much like the state and political subdivisions limited liability that we increase last session.

Thank you for the favorable consideration of HB1284.



**North Dakota Association for Justice**  
*The Trial Lawyers of North Dakota*  
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#### HB 1284 – House Judiciary

Good morning, Chairman Klemin and members of the House Judiciary. My name is Jaci Hall and I am the Executive Director of the North Dakota Association for Justice. I am here today in support of HB 1284.

HB1284 gradually increases the caps for employee misconduct for charitable organizations. This statute was originally created in 2007 as a way for some nonprofit organizations who received state and federal funds to reduce their premiums for non-reimbursable expenses. In some RFP's, this type of insurance is not reimbursable and so they use donor dollars to cover the expense.

In 2021, Representative Pyle, myself, NDIRF and the North Dakota Association of Counties worked together to increase the liability caps for political subdivisions and state agencies gradually until 2027. These caps had not been raised since 1977. About a year ago, we noticed that this cap was not reviewed with the others and should receive the same gradual increase as state agencies and political subdivisions across the state.

While reviewing the statute, I interviewed charitable organizations and insurance agencies to see what current coverage these organizations carried and whether or not increasing the coverage would have on their premiums.

Of all the organizations I interviewed, they all had a minimum of \$500,000 in Employee Practices Liability Insurance and many had \$1,000,000 per person. The insurance agents that I interviewed indicated they do not sell coverage lower than \$500,000.

HB1284 will gradually increase the cap on charitable organizations through 2029 to \$500,000 per person and \$2,000,000 per occurrence.

The gradual increase will allow charitable organizations to adjust their budgets to account for any premium increases. However, as many already have the coverage at this level, the premium will be equal throughout the transition.

Today, I ask the committee to recommend a Do Pass on HB 1284. I will stand for questions.

Testimony on HB 1284

Glendon Philbrick, Advocate for survivors of child abuse and friend to survivors of child abuse.  
[glen.philbrick@gmail.com](mailto:glen.philbrick@gmail.com)

Thank you for the opportunity to testify against the enactment of HB 1284.

There are multiple reasons why this bill should receive a **do not pass** vote from the Judiciary Committee.

- 1). Limiting liability for charitable organizations who have engaged in negligent or criminal behavior, creates an unfair environment for everyone else. Any other citizen is subject to unlimited liability.
- 2). Charitable organizations who have engaged in negligent or criminal behavior, are tax exempt, giving them financial advantages over North Dakota citizens, including citizens they have been wronged.
- 3). Having served in a capacity to report child abuse and assist in reporting child abuse, I discovered the charitable organizations who have engaged in negligent or criminal behavior, declare war on victims of child abuse and do all they can to cause further harm. I know too many clergy who were chastised by their superiors for reporting abuse or removed from their duties for reporting abuse. The top tier of leadership are child victim's worst enemy.
- 4). Upon the release of names of clergy suspected of child abuse by the Catholic Church from the Diocese in Bismarck, press attempted to interview one of the living priests. As of 2021, one of the suspected priests was living at the Assumption Abbey in Richardton. The Diocese takes excellent care of their priests. This is a red flag. Why does a suspected priest receive such excellent care yet victims can only receive justice through litigation?
- 5). Victims are already at an unfair advantage because they are children, they are vulnerable, easily manipulated, scared, and the perpetrators do all they can to harm them. Statute of limitations have further provided an advantage to charitable organizations.
- 6). Examine the financial assets of the charitable organizations. The IRS has this information. Charitable organizations have more assets and access to legal counsel than victims do.
- 7). Charitable organizations who have engaged in negligent or criminal behavior, including churches, and the Boy Scouts of America, have a history of covering up child abuse. Providing a limitation is only condoning the bad behavior.
- 8). The limitation excludes the reality that losses can exceed the limit. What if a victim of negligence through an accident caused by a charitable organization needs long-term care? Long-term care costs in excess of \$100,000 per year. The ethical action for the charitable organization who have engaged in negligent or criminal behavior to take is to pay for all financial losses, not matter what the cost.

9). Limiting liability for charitable organizations who have engaged in negligent or criminal behavior, is just another reward to their bad behavior.

In summary, limiting liability for charitable organizations is just another slap in the face to victims of both negligence and crimes. Why any organization or member of the legislature wants to put a limit on damages associated with the sacred lives of children is concerning and proof that lives of children do not matter.

Thank you for the opportunity to submit written testimony. I am happy to visit with members of the committee or answer follow up questions. My email address is [glen.philbrick@gmail.com](mailto:glen.philbrick@gmail.com).

I urge members to recommend **“do not pass”** as to HB 1284.

Glendon Philbrick



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
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## Representative Brandy Pyle

District 22  
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## COMMITTEES:

Appropriations

March 28, 2023

Good morning, Chair Larson and Judiciary Committee. For the record I am Brandy Pyle from District 22. I am here to introduce HB 1284. This proposed legislation is intended to increase the liability charitable organization for money damages for a personal injury or property damage proximately caused by the negligence or wrongful act or omission of an employee acting within the employee's scope of employment. It's been a long time since these caps have been increased.

This would slowly increase the liability to \$375,000 per person up from \$250,000 first in July 2023.

Then, increase to \$406,250 per person and \$1,625,000 for a single occurrence in 2025.

The next increase then would be July 1, 2026 to \$437,500 per person and \$1,750,000 for any single occurrence.

Then the final increase would take place on July 1, 2027 for \$468,750 per person and \$1,875,000 per occurrence.

Section 2 changes the amount to \$500,000 per person and \$2,000,000 per occurrence in 2029.

So, section one has an emergency clause on it for it to begin before the end of the biennium, and section two becomes effective July 1, 2029.

This incremental increase is much like the state and political subdivisions limited liability that we increased last session.

I am aware of a possible request from one of the people coming to support this bill and am ok with the idea.

Thank you for the favorable consideration of HB1284.



## HB 1284 – Senate Judiciary

Madam chair Larson and members of the Senate Judiciary Committee, I am Jaci Hall, Executive Director of the North Dakota Association for Justice. I am here today in support of HB 1284 but have concerns.

HB1284 increases the liability caps for charitable organizations defined in NDCC 32-03.3-01:

"Charitable organization" means a nonprofit organization whose primary purpose is for relief of poor, disabled, underprivileged, or abused persons, support of youth and youth programs, or the prevention of abuse to children and vulnerable adult.

The Charitable Organization can only be held liable for money damages for personal injury or property damage proximately caused by the negligence or wrongful act or omission of an employee acting within the employee's scope of employment.

Increasing the caps creates equivalency with current caps for political subdivisions and state agencies. However, the cap limits for political subdivisions and state agencies include more than employee negligence.

This legislation was created in 2007 when the Dakota Boys and Girls Ranch believed adding a cap on employee negligence insurance (EPLI) would reduce the premiums they pay for insurance. They cited that they paid around 62,000 at the time in insurance – with about 1/3 of it going to EPLI premiums. However, DBGR was only concerned with reducing EPLI, not other premiums.

Since then, these organizations have grown substantially – DGBR reported 22 million dollars in revenues in 2021. Why should large organizations with additional revenue streams be capped when small businesses have no cap?

HB1284 increases the EPLI, but I believe these caps need to be removed.

First, insurance agents that I met with said EPLI premiums are sold at a minimum of \$500,000 in coverage for small charitable organizations with larger charitable organizations seeking coverage of \$2-5 million dollars.

Second, the statute says, “employee’s scope of employment”. This can mean the custodian, a social worker in a group home, the cashier in a thrift store or the bingo caller and black jack dealer in a charitable organization’s gaming program. The statute can also cap organizations liability who are found guilty of unfair dismissal, discrimination, defamation, or other employment concerns. As these organizations have grown and expanded their revenue streams, these caps may have unforeseen consequences. They also seem to be unfair to organizations providing the charitable services but are not covered by the definition mentioned above.

Lastly, the state of Washington has deemed caps unconstitutional. Other states are challenging caps as well.

[Sofie v. Fibreboard Corp. :: 1989 :: Washington Supreme Court Decisions :: Washington Case Law :: Washington Law :: US Law :: Justia](#)

In this case, the Sofies were awarded over 1.3 million dollars in damages, but due to caps placed on different types of damages, they were awarded a little over \$125,000.

The court ruled caps violated the 7<sup>th</sup> Amendment and 14<sup>th</sup> Amendment. The 7<sup>th</sup> Amendment preserves the right to a trial by jury, with a jury of their peers. The 14<sup>th</sup> Amendment allows for equal protection under the law.

The court determined that juries should remain inviolate, meaning free or safe from injury or violation. They felt that a jury of one’s peers has a solemn duty to determine the full extent of an injury and caps restrict that solemn duty.

HB1284 increases caps, but when charitable organizations have 20 gaming sites and receive over 84 million dollars in revenues each year, should they be entitled to these caps?

In closing, please consider reviewing the validity of these caps and if they have merit. At minimum, please vote to increase them to be equal to those of political subdivisions and state agencies. If you believe these caps should be removed, please amend the bill accordingly.

Thank you,  
Jaclyn Hall  
Executive Director  
NDAJ