

# HOUSE BILL ANALYSIS

## SSB 5375

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**Title:** An act relating to charitable donations for children.

**Brief Description:** Redefining a distributing organization to include a public health agency.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Rossi, Hargrove, Sellar, Winsley, Strannigan, Morton, Finkbeiner, Oke, Hochstatter and Long).

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### HOUSE COMMITTEE ON LAW & JUSTICE

**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. An explicit provision is added limiting a public health agency's inclusion in the definition to the agency's performance of charitable distributions.

**Fiscal Note:** Not requested.

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

Office of Program Research