

# State of Wisconsin



1995 Senate Bill 561

Date of enactment: **April 22, 1996**

Date of publication\*: **May 6, 1996**

## 1995 WISCONSIN ACT 260

AN ACT to amend 187.19 (1); and to create subchapter I (title) of chapter 187 [precedes 187.01], subchapter II (title) of chapter 187 [precedes 187.20] and subchapter III of chapter 187 [precedes 187.40] of the statutes; relating to: limiting the liability of trustees, directors, officers and volunteers of religious organizations.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** Subchapter I (title) of chapter 187 [precedes 187.01] of the statutes is created to read:

### **CHAPTER 187** **SUBCHAPTER I** **GENERAL PROVISIONS**

**SECTION 2.** 187.19 (1) of the statutes is amended to read:

187.19 (1) **BISHOP MAY INCORPORATE.** The provisions of this chapter, except this section and ~~ss. 187.20 to 187.33 subch. II~~, shall not apply to or in any manner affect the Roman Catholic church or denomination, or any society or religious corporation now existing or which may be organized in connection therewith. The bishop of each diocese, being the only trustee of each Roman Catholic church in his diocese, may cause any or all congregations therein to be incorporated by adding four more members as trustees as hereinafter provided. The bishop and vicar-general of each diocese, the pastor of the congregation to be incorporated, together with two laypersons, practical communicants of such congregation (the latter to be chosen from and by the congregation), shall be such trustees.

**SECTION 3.** Subchapter II (title) of chapter 187 [precedes 187.20] of the statutes is created to read:

### **CHAPTER 187**

#### **SUBCHAPTER II**

#### **LIABILITY AND INDEMNIFICATION; ROMAN CATHOLIC CHURCH**

**SECTION 4.** Subchapter III of chapter 187 [precedes 187.40] of the statutes is created to read:

### **CHAPTER 187**

#### **SUBCHAPTER III**

#### **LIABILITY; OTHER RELIGIOUS ORGANIZATIONS**

**187.40 Definitions.** In this subchapter:

(1) "Director" means an individual who is serving as a trustee or director of a religious organization or an individual who is serving in a similar capacity in a religious organization.

(2) "Religious organization" means an association, conference, congregation, convention, committee or other entity that is organized and operated for a religious purpose and that is exempt from federal income tax under [26 USC 501](#) (c) (3) or (d) and any subunit of such an association, conference, congregation, convention, committee or entity that is organized and operated for a religious purpose, except that "religious organization" does not include any of the following:

(a) A Roman Catholic church organized under s. 187.19.

(b) A nonstock corporation organized under ch. 181.

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(3) “Officer” means an individual who is serving as a president, vice president, treasurer or secretary of a religious organization or who is serving in a similar office in a religious organization.

**187.41 Reliance by directors or officers.** Unless the director or officer knew or should have known that reliance was unwarranted, a director or officer, in discharging his or her duties to a religious organization, may rely on information, opinions, reports or statements, any of which may be written or oral, formal or informal, including financial statements and other financial data, if prepared or presented by any of the following:

(1) An officer or employe of the religious organization whom the director or officer believes in good faith to be reliable and competent in the matters presented.

(2) Legal counsel, public accountants or other professional persons or experts employed by the religious organization, as to matters the director or officer believes in good faith are within the person’s professional or expert competence.

(3) In the case of reliance by a director, a committee of the governing body of the religious organization of which the director is not a member if the director believes in good faith that the committee merits confidence.

**187.42 Limited liability of directors and officers.**

(1) Except as provided in sub. (2), a director or officer is not liable to the religious organization, its members or creditors, or any person asserting rights on behalf of the religious organization, its members or creditors, or any other person, for damages, settlements, fees, fines, penalties or other monetary liabilities arising from a breach of, or failure to perform, any duty resulting solely from his or her status as a director or officer, unless the person asserting liability proves that the breach or failure to perform constitutes any of the following:

(a) A wilful failure to deal fairly with the religious organization or its members in connection with a matter in which the director or officer has a material conflict of interest.

(b) A violation of criminal law, unless the director or officer had reasonable cause to believe his or her conduct was lawful or no reasonable cause to believe his or her conduct was unlawful.

(c) A transaction from which the director or officer derived an improper personal profit.

(d) Wilful misconduct.

(2) (a) Except as provided in par. (b), this section does not apply to any of the following:

1. A civil or criminal proceeding brought by or on behalf of any governmental unit, authority or agency.

2. A proceeding brought by any person for a violation of state or federal law where the proceeding is brought pursuant to an express private right of action created by state or federal statute.

3. If the religious organization operates a cemetery, the liability of a director or officer arising from a breach

of, or failure to perform, any duty relating to the receipt, handling, investment or other use of perpetual care funds, maintenance funds or other funds held in trust in connection with the operations of the cemetery.

(b) Paragraph (a) 1. and 2. does not apply to a proceeding brought by a governmental unit, authority or agency in its capacity as a private party or contractor.

**187.43 Limited liability of volunteers.** (1) In this section, “volunteer” means an individual, other than an employe of the religious organization, who provides services to or on behalf of the religious organization without compensation.

(2) Except as provided in sub. (3), a volunteer is not liable to any person for damages, settlements, fees, fines, penalties or other monetary liabilities arising from any act or omission as a volunteer, unless the person asserting liability proves that the act or omission constitutes any of the following:

(a) A violation of the criminal law, unless the volunteer had reasonable cause to believe his or her conduct was lawful or no reasonable cause to believe his or her conduct was unlawful.

(b) Wilful misconduct.

(c) If the volunteer is a director or officer of the religious organization, an act or omission within the scope of the volunteer’s duties as a director or officer.

(d) An act or omission for which the volunteer received compensation or any thing of substantial value in lieu of compensation.

(3) (a) Except as provided in par. (b), this section does not apply to any of the following:

1. A civil or criminal proceeding brought by or on behalf of any governmental unit, authority or agency.

2. A proceeding brought by any person for a violation of state or federal law where the proceeding is brought pursuant to an express private right of action created by state or federal statute.

3. Claims arising from the negligent operation of an automobile, truck, train, airplane or other vehicle by a volunteer.

4. A proceeding against a volunteer who is licensed, certified, permitted or registered under state law and which is based upon an act or omission within the scope of practice under the volunteer’s license, certificate, permit or registration.

5. Proceedings based upon a cause of action for which the volunteer is immune from liability under s. 146.31 (2) and (3), 146.37, 895.44, 895.48, 895.482, 895.51 or 895.52.

(b) Paragraph (a) 1. and 2. does not apply to a proceeding brought by or on behalf of a governmental unit, authority or agency in its capacity as a contractor.

**187.44 Applicability of other liability provisions.**

This subchapter does not affect any powers and privileges granted under s. 187.01 (2) to religious societies formed under s. 187.01.

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**SECTION 5. Initial applicability.**

(1) The treatment of sections 187.42 and 187.43 of the statutes first applies to a cause of action that accrues on the effective date of this subsection.

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