

103^D CONGRESS
1ST SESSION

H. R. 911

To encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 1993

Mr. PORTER (for himself, Mr. ANDREWS of Maine, Mr. BACCHUS of Florida, Mr. BEREUTER, Mr. BOEHNER, Mr. BROWDER, Mr. BUNNING, Mr. BURTON of Indiana, Miss COLLINS of Michigan, Mr. COX, Mr. DOOLEY, Mr. DURBIN, Mr. DORNAN, Mr. FALEOMAVAEGA, Mr. FROST, Mr. GALLEGLY, Mr. GILMAN, Mr. GOODLING, Mr. GOSS, Mr. GREENWOOD, Mr. GUNDERSON, Mr. GUTIERREZ, Mr. HALL, Mr. HENRY, Mr. HERGER, Ms. NORTON, Mr. HUGHES, Mr. HUNTER, Mr. HYDE, Mr. SAM JOHNSON of Texas, Mr. KING, Mr. KLUG, Mr. KYL, Mr. LIGHTFOOT, Mr. MACHTLEY, Mr. MAZZOLI, Mr. McCANDLESS, Mr. McCOLLUM, Mr. McCLOSKEY, Mr. McDADE, Mr. MCHUGH, Mr. MCKEON, Mrs. MEYERS of Kansas, Mr. MOAKLEY, Mr. MONTGOMERY, Mrs. MORELLA, Mr. PETERSON of Minnesota, Mr. PETRI, Mr. PICKETT, Mr. QUINN, Mr. ROYCE, Mr. SCHIFF, Mr. SHAYS, Mr. SKAGGS, Ms. SLAUGHTER, Mr. SOLOMON, Mr. STARK, Mr. SUNDQUIST, Mr. WALSH, Mr. WELDON, Mr. WOLF, and Mr. McNULTY) introduced the following bill; which was referred jointly to the Committees on the Judiciary and Ways and Means

A BILL

To encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Volunteer Protection
5 Act of 1993”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds and declares
8 that—

9 (1) within certain States, the willingness of vol-
10 unteers to offer their services has been increasingly
11 deterred by a perception that they thereby put per-
12 sonal assets at risk in the event of liability actions
13 against the organization they serve;

14 (2) as a result of this perception, many non-
15 profit public and private organizations and govern-
16 mental entities, including voluntary associations, so-
17 cial service agencies, educational institutions, local
18 governments, foundations, and other civic programs,
19 have been adversely affected through the withdrawal
20 of volunteers from boards of directors and service in
21 other capacities;

22 (3) the contribution of these programs to their
23 communities is thereby diminished, resulting in
24 fewer and higher cost programs than would be ob-
25 tainable if volunteers were participating; and

1 (4) because Federal funds are expended on use-
2 ful and cost-effective social service programs which
3 depend heavily on volunteer participation, protection
4 of voluntarism through clarification and limitation of
5 the personal liability risks assumed by the volunteer
6 in connection with such participation is an appro-
7 priate subject for Federal encouragement of State
8 reform.

9 (b) PURPOSE.—It is the purpose of this Act to pro-
10 mote the interests of social service program beneficiaries
11 and taxpayers and to sustain the availability of programs
12 and nonprofit organizations and governmental entities
13 which depend on volunteer contributions by encouraging
14 reasonable reform of State laws to provide protection from
15 personal financial liability to volunteers serving with non-
16 profit organizations and governmental entities for actions
17 undertaken in good faith on behalf of such organizations.

18 **SEC. 3. NO PREEMPTION OF STATE TORT LAW.**

19 Nothing in this Act shall be construed to preempt the
20 laws of any State governing tort liability actions.

21 **SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.**

22 (a) LIABILITY PROTECTION FOR VOLUNTEERS.—Ex-
23 cept as provided in subsections (b) and (d), any volunteer
24 of a nonprofit organization or governmental entity shall
25 incur no personal financial liability for any tort claim al-

1 leging damage or injury from any act or omission of the
2 volunteer on behalf of the organization or entity if—

3 (1) such individual was acting in good faith and
4 within the scope of such individual's official func-
5 tions and duties with the organization or entity; and

6 (2) such damage or injury was not caused by
7 willful and wanton misconduct by such individual.

8 (b) CONCERNING RESPONSIBILITY OF VOLUNTEERS
9 WITH RESPECT TO ORGANIZATIONS.—Nothing in this
10 section shall be construed to affect any civil action brought
11 by any nonprofit organization or any governmental entity
12 against any volunteer of such organization or entity.

13 (c) NO EFFECT ON LIABILITY OF ORGANIZATION.—
14 Nothing in this section shall be construed to affect the
15 liability of any nonprofit organization or governmental en-
16 tity with respect to injury caused to any person.

17 (d) EXCEPTIONS TO VOLUNTEER LIABILITY PRO-
18 TECTION.—A State may impose one or more of the follow-
19 ing conditions on and exceptions to the granting of liabil-
20 ity protection to any volunteer of an organization or entity
21 required by subsection (a):

22 (1) The organization or entity must adhere to
23 risk management procedures, including mandatory
24 training of volunteers.

1 (2) The organization or entity shall be liable for
2 the acts or omissions of its volunteers to the same
3 extent as an employer is liable, under the laws of
4 that State, for the acts or omissions of its em-
5 ployees.

6 (3) The protection from liability does not apply
7 if the volunteer was operating a motor vehicle or was
8 operating a vessel, aircraft, or other vehicle for
9 which a pilot's license is required.

10 (4) The protection from liability does not apply
11 in the case of a suit brought by an appropriate offi-
12 cer of a State or local government to enforce a Fed-
13 eral, State, or local law.

14 (5) The protection from liability shall apply
15 only if the organization or entity provides a finan-
16 cially secure source of recovery for individuals who
17 suffer injury as a result of actions taken by a volun-
18 teer on behalf of the organization or entity. A finan-
19 cially secure source of recovery may be an insurance
20 policy within specified limits, comparable coverage
21 from a risk pooling mechanism, equivalent assets, or
22 alternative arrangements that satisfy the State that
23 the entity will be able to pay for losses up to a speci-
24 fied amount. Separate standards for different types
25 of liability exposure may be specified.

1 **SEC. 5. CERTIFICATION REQUIREMENT AND ADJUSTMENT**
2 **OF SOCIAL SERVICES BLOCK GRANT ALLOT-**
3 **MENTS.**

4 (a) CERTIFICATION AND BLOCK GRANT ALLOT-
5 MENTS.—In the case of any State which certifies, not later
6 than 2 years after the date of the enactment of this Act,
7 to the Secretary of Health and Human Services that it
8 has enacted, adopted, or otherwise has in effect State law
9 which substantially complies with section 4(a), the Sec-
10 retary shall increase by 1 percent the fiscal year allotment
11 which would otherwise be made to such State to carry out
12 the Social Services Block Grant Program under title XX
13 of the Social Security Act.

14 (b) CONTINUATION OF INCREASE.—Any increase
15 made under subsection (a) in an allotment to a State shall
16 remain in effect only if the State makes a certification
17 to the Secretary of Health and Human Services, not later
18 than the end of each 1-year period occurring successively
19 after the end of the 2-year period described in subsection
20 (a), that it has in effect State law which substantially com-
21 plies with section 4(a).

22 **SEC. 6. DEFINITIONS.**

23 For purposes of this Act—

24 (1) the term “volunteer” means an individual
25 performing services for a nonprofit organization or
26 a governmental entity who does not receive com-

1 pensation, or any other thing of value in lieu of com-
2 pensation, for such services (other than reimburse-
3 ment for expenses actually incurred or honoraria not
4 to exceed \$300 per year for government service),
5 and such term includes a volunteer serving as a di-
6 rector, officer, trustee, or direct service volunteer;

7 (2) the term “nonprofit organization” means
8 any organization described in section 501(c) of the
9 Internal Revenue Code of 1986 and exempt from tax
10 under section 501(a) of such Code;

11 (3) the term “damage or injury” includes phys-
12 ical, nonphysical, economic, and noneconomic dam-
13 age; and

14 (4) the term “State” means each of the several
15 States, the District of Columbia, the Commonwealth
16 of Puerto Rico, the Virgin Islands, Guam, American
17 Samoa, the Northern Mariana Islands, any other
18 territory or possession of the United States, or any
19 political subdivision of any such State, territory, or
20 possession.

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