

Calendar No. 194

108TH CONGRESS
1ST SESSION**S. 1280**

To amend the PROTECT Act to clarify certain volunteer liability.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2003

Mr. HATCH (for himself and Mr. BIDEN) introduced the following bill; which
was read twice and referred to the Committee on the Judiciary

JULY 10, 2003

Reported by Mr. HATCH, with an amendment

[Omit the part struck through and insert the part printed in italic]

A BILLTo amend the PROTECT Act to clarify certain volunteer
liability.

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. AMENDMENT TO THE PROTECT ACT.**

4 Section 108 of the PROTECT ACT (Public Law
 5 108–21) is amended by adding at the end the following:

6 ~~“(e) VOLUNTEER LIABILITY.—~~

1 ~~“(1) IN GENERAL.—The National Center for~~
 2 ~~Missing and Exploited Children, including any of its~~
 3 ~~officers, employees, or agents, shall not be liable for~~
 4 ~~damages of any kind in any civil action arising out~~
 5 ~~of any action or communication by the National~~
 6 ~~Center for Missing and Exploited Children, its offi-~~
 7 ~~cers, employees, or agents, in connection with any~~
 8 ~~activities under this section.~~

9 ~~“(2) EXCEPTION.—The limitation in paragraph~~
 10 ~~(1) does not apply in any action in which the plain-~~
 11 ~~tiff proves that the National Center for Missing and~~
 12 ~~Exploited Children, its officers, employees, or agents~~
 13 ~~acted with actual malice, or provided information or~~
 14 ~~took action for a purpose unrelated to an activity~~
 15 ~~mandated by Federal law.”.~~

16 ~~“(e) LIMITATION ON LIABILITY.—In connection with~~
 17 ~~the Pilot Programs established under this section, in reli-~~
 18 ~~ance upon the fitness criteria established under section~~
 19 ~~108(a)(3)(G)(i), and except upon proof of actual malice or~~
 20 ~~intentional misconduct, the National Center for Missing~~
 21 ~~and Exploited Children, or a director, officer, employee, or~~
 22 ~~agent of the Center shall not be liable in any civil action~~
 23 ~~for damages—~~

24 ~~“(1) arising from any act or communication by~~
 25 ~~the Center, the director, officer, employee, or agent~~

1 *that results in or contributes to a decision that an in-*
2 *dividual is unfit to serve as a volunteer for any vol-*
3 *unteer organization;*

4 “(2) *alleging harm arising from a decision based*
5 *on the information in an individual’s criminal his-*
6 *tory record that an individual is fit to serve as a vol-*
7 *unteer for any volunteer organization unless the Cen-*
8 *ter, the director, officer, employee, or agent is fur-*
9 *nished with an individual’s criminal history records*
10 *which they know to be inaccurate or incomplete, or*
11 *which they know reflect a lesser crime than that for*
12 *which the individual was arrested; and*

13 “(3) *alleging harm arising from a decision that,*
14 *based on the absence of criminal history information,*
15 *an individual is fit to serve as a volunteer for any*
16 *volunteer organization unless the Center, the director,*
17 *officer, employee, or agent knows that criminal his-*
18 *tory records exist and have not been furnished as re-*
19 *quired under this section.”.*

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