

105TH CONGRESS  
1ST SESSION

# H. R. 1167

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

Mr. INGLIS of South Carolina introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

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 1997”.

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

7       The Congress finds and declares that—

1           (1) the willingness of volunteers to offer their  
2           services is deterred by potential for liability actions  
3           against them and the organizations they serve;

4           (2) as a result, many nonprofit public and pri-  
5           vate organizations and governmental entities, includ-  
6           ing voluntary associations, social service agencies,  
7           educational institutions, and other civic programs,  
8           have been adversely affected by the withdrawal of  
9           volunteers from boards of directors and service in  
10          other capacities;

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

15          (4) because Federal funds are expended on use-  
16          ful and cost-effective social service programs, many  
17          of which are national in scope, depend heavily on  
18          volunteer participation, and represent some of the  
19          most successful public-private partnerships, protec-  
20          tion of volunteerism through clarification and limita-  
21          tion of the personal liability risks assumed by the  
22          volunteer in connection with such participation is an  
23          appropriate subject for Federal legislation.

24          (b) PURPOSE.—The purpose of this Act is to promote  
25          the interests of social service program beneficiaries and

1 taxpayers and to sustain the availability of programs, non-  
2 profit organizations, and governmental entities that de-  
3 pend on volunteer contributions by reforming the laws to  
4 provide protection from personal financial liability to vol-  
5 unteers serving nonprofit organizations and governmental  
6 entities for actions undertaken in good faith on behalf of  
7 such organizations.

8 **SEC. 3. PREEMPTION.**

9       This Act preempts the laws of any State to the extent  
10 that such laws are inconsistent with this Act, except that  
11 this Act shall not preempt any State law that provides  
12 additional protections to volunteers or category of volun-  
13 teers from personal liability in the performance of services  
14 for a nonprofit organization or governmental organization.

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

16       (a) **LIABILITY PROTECTION FOR VOLUNTEERS.**—Ex-  
17 cept as provided in subsections (b) and (d), no volunteer  
18 of a nonprofit organization or governmental entity shall  
19 be liable for harm caused by an act or omission of the  
20 volunteer on behalf of the organization or entity if—

21               (1) the volunteer was acting within the scope of  
22       the volunteer’s responsibilities in the nonprofit orga-  
23       nization or governmental entity at the time of the  
24       act or omission;

1           (2) if appropriate or required, the volunteer was  
2           properly licensed, certified, or authorized by the ap-  
3           propriate authorities for the activities or practice in  
4           the State, in which the harm occurred, undertaken  
5           within the scope of the volunteer's responsibilities in  
6           the nonprofit organization or governmental entity;  
7           and

8           (3) the harm was not caused by willful or crimi-  
9           nal misconduct or a conscious, flagrant indifference  
10          to the rights or safety of the individual harmed by  
11          the volunteer.

12          (b) CONCERNING RESPONSIBILITY OF VOLUNTEERS  
13          TO ORGANIZATIONS AND ENTITIES.—Nothing in this sec-  
14          tion shall be construed to affect any civil action brought  
15          by any nonprofit organization or any governmental entity  
16          against any volunteer of such organization or entity.

17          (c) NO EFFECT ON LIABILITY OF ORGANIZATION OR  
18          ENTITY.—Nothing in this section shall be construed to af-  
19          fect the liability of any nonprofit organization or govern-  
20          mental entity with respect to harm caused to any person,  
21          except that in an action brought on the basis of such liabil-  
22          ity punitive damages may not be awarded against such  
23          organization or entity unless the harm was proximately  
24          caused by the action of a volunteer of such organization  
25          or entity which was willful or criminal or a conscious, fla-

1 grant indifference to the rights or safety of the individual  
2 harmed.

3 (d) EXCEPTIONS TO VOLUNTEER LIABILITY PRO-  
4 TECTION.—If the laws of a State limit volunteer liability  
5 subject to one or more of the following conditions, such  
6 conditions shall not be construed as inconsistent with this  
7 section:

8 (1) A State law that requires a nonprofit orga-  
9 nization or governmental entity to adhere to risk  
10 management procedures, including mandatory train-  
11 ing of volunteers.

12 (2) A State law that makes the organization or  
13 entity liable for the acts or omissions of its volun-  
14 teers to the same extent as an employer is liable for  
15 the acts or omissions of its employees.

16 (3) A State law that makes a limitation of li-  
17 ability inapplicable if the volunteer was operating a  
18 motor vehicle, vessel, aircraft, or other vehicle for  
19 which the State requires the operator or vehicle  
20 owner to possess an operator's license or to maintain  
21 insurance.

22 (4) A State law that makes a limitation of li-  
23 ability inapplicable if the civil action was brought by  
24 an officer of a State or local government pursuant  
25 to State or local law.

1           (5) A State law that makes a limitation of li-  
2           ability applicable only if the nonprofit organization  
3           or governmental entity provides a financially secure  
4           source of recovery for individuals who suffer harm  
5           as a result of actions taken by a volunteer on behalf  
6           of the organization or entity. A financially secure  
7           source of recovery may be an insurance policy within  
8           specified limits, comparable coverage from a risk  
9           pooling mechanism, equivalent assets, or alternative  
10          arrangements that satisfy the State that the organi-  
11          zation or entity will be able to pay for losses up to  
12          a specified amount. Separate standards for different  
13          types of liability exposure may be specified.

14 **SEC. 5. DEFINITIONS.**

15       For purposes of section 4:

16           (1) **ECONOMIC LOSS.**—The term “economic  
17          losses” means objectively verifiable monetary losses,  
18          including past and future medical expenses, loss of  
19          past and future earnings, cost of obtaining replace-  
20          ment services in the home (including child care,  
21          transportation, food preparation, and household  
22          care), cost of making reasonable accommodations to  
23          a personal residence, loss of employment, and loss of  
24          business or employment opportunities.

1           (2) HARM.—The term “harm” includes phys-  
2           ical, nonphysical, economic, and noneconomic losses.

3           (3) NONECONOMIC LOSSES.—The term “non-  
4           economic losses” means losses for physical and emo-  
5           tional pain, suffering, inconvenience, physical im-  
6           pairment, mental anguish, disfigurement, loss of en-  
7           joyment of life, loss of society and companionship,  
8           loss of consortium (other than loss of domestic serv-  
9           ice), hedonic damages, injury to reputation and all  
10          other nonpecuniary losses of any kind or nature.

11          (4) NONPROFIT ORGANIZATION.—The term  
12          “nonprofit organization” means any organization de-  
13          scribed in section 501(c) of the Internal Revenue  
14          Code of 1986 and exempt from tax under section  
15          501(a) of such Code.

16          (5) STATE.—The term “State” means each of  
17          the several States, the District of Columbia, the  
18          Commonwealth of Puerto Rico, the Virgin Islands,  
19          Guam, American Samoa, the Northern Mariana Is-  
20          lands, any other territory or possession of the Unit-  
21          ed States, or any political subdivision of any such  
22          State, territory, or possession.

23          (6) VOLUNTEER.—The term “volunteer” means  
24          an individual performing services for a nonprofit or-

1       ganization or a governmental entity who does not re-  
2       ceive—

3               (A) compensation (other than reimburse-  
4               ment or allowance for expenses actually in-  
5               curred); or

6               (B) any other thing of value in lieu of com-  
7               pensation,

8       in excess of \$300 per year, and such term includes  
9       a volunteer serving as a director, officer, trustee, or  
10      direct service volunteer.

11 **SEC. 6. EFFECTIVE DATE.**

12      Section 4 applies to any claim for harm caused by  
13      an act or omission of a volunteer filed on or after the date  
14      of enactment of this Act, without regard to whether the  
15      harm that is the subject of the claim or the conduct that  
16      caused the harm occurred before such date of enactment.

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