

105TH 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

MARCH 4, 1997

Mr. PORTER (for himself, Mr. ACKERMAN, Mr. BAKER, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BEREUTER, Mr. BLILEY, Mr. BOEHLERT, Mr. BUNNING, Mr. CALLAHAN, Mr. CAMPBELL, Mr. CANADY of Florida, Mrs. CARSON, Ms. CHRISTIAN-GREEN, Mr. COOKSEY, Mr. COYNE, Mr. CUNNINGHAM, Ms. DANNER, Mr. DAVIS of Virginia, Mr. DICKEY, Mr. DOYLE, Ms. DUNN, Mr. EHLERS, Mr. EHRLICH, Mrs. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. EVANS, Mr. FATTAH, Mr. FILNER, Mr. FOLEY, Mr. FRANK of Massachusetts, Mr. FRANKS of New Jersey, Mr. FROST, Ms. FURSE, Mr. GALLEGLY, Mr. GILCHREST, Mr. GOODLATTE, Mr. GOODLING, Mr. GOSS, Mr. GREENWOOD, Mr. HALL of Ohio, Mr. HASTERT, Mr. HAYWORTH, Mr. HERGER, Mr. HOBSON, Mr. HOLDEN, Mr. HORN, Mrs. JOHNSON of Connecticut, Mrs. KELLY, Mr. KIM, Mr. LARGENT, Mr. LEACH, Mr. LIVINGSTON, Mr. MCCOLLUM, Mr. MCHUGH, Mr. MCKEON, Ms. MCKINNEY, Mr. MCINTOSH, Mr. MEEHAN, Ms. MOLINARI, Mr. NEAL of Massachusetts, Mr. NEY, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PARKER, Mr. PAYNE, Mr. PETRI, Mr. PICKETT, Mr. POSHARD, Mr. QUINN, Mr. RAMSTAD, Mr. RIGGS, Mr. ROMERO-BARCELÓ, Mr. SANDERS, Mr. SANFORD, Mr. SCHIFF, Mr. SENSENBRENNER, Mr. SERRANO, Mr. SHAYS, Mr. SISISKY, Mr. SKEEN, Ms. SLAUGHTER, Mr. STARK, Mr. STUMP, Mrs. THURMAN, Mr. TOWNS, Mr. WALSH, Mr. WATTS of Oklahoma, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. WICKER, Mr. WOLF, Mr. CASTLE, Mr. FALEOMAVAEGA, Mr. FOX of Pennsylvania, Ms. JACKSON-LEE of Texas, and Mr. MARTINEZ), introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Volunteer Protection Act of 1997”.

6 (b) TABLE OF CONTENTS.—The table of contents of
 7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purpose.
- Sec. 3. No preemption of State tort law.
- Sec. 4. Limitation on liability for volunteers.
- Sec. 5. Certification requirement and adjustment of Social Services Block
Grant Program allotments.
- Sec. 6. Definitions.

8 **SEC. 2. FINDINGS AND PURPOSE.**

9 (a) FINDINGS.—The Congress finds and declares
 10 that—

11 (1) the willingness of volunteers to offer their
 12 services is deterred by potential personal liability for
 13 simple mistakes made in the course of volunteer
 14 service;

15 (2) as a result, many nonprofit public and pri-
 16 vate organizations and governmental entities, includ-
 17 ing voluntary associations, social service agencies,

1 educational institutions, local governments, founda-
2 tions, and other civic programs, have been adversely
3 affected through the withdrawal of volunteers from
4 boards of directors and service in other capacities;

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

9 (4) because Federal funds are expended on use-
10 ful and cost-effective social service programs which
11 depend heavily on volunteer participation, protection
12 of voluntarism through clarification and limitation of
13 the personal liability risks assumed by the volunteer
14 in connection with such participation is an appro-
15 priate subject for Federal encouragement of State
16 reform.

17 (b) PURPOSE.—It is the purpose of this Act to pro-
18 mote the interests of social service program beneficiaries
19 and taxpayers and to sustain the availability of programs
20 and nonprofit organizations and governmental entities
21 which depend on volunteer contributions by encouraging
22 reasonable reform of State laws to provide protection from
23 personal financial liability to volunteers serving with non-
24 profit organizations and governmental entities for actions
25 undertaken in good faith on behalf of such organizations.

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

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

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

5 (a) **LIABILITY PROTECTION FOR VOLUNTEERS.**—Ex-
6 cept as provided in subsections (b) and (d), any volunteer
7 of a nonprofit organization or governmental entity shall
8 incur no personal financial liability for any tort claim al-
9 leging damage or injury from any act or omission of the
10 volunteer on behalf of the organization or entity if—

11 (1) such volunteer was acting in good faith and
12 within the scope of such volunteer’s official functions
13 and duties with the organization or entity; and

14 (2) such damage or injury was not caused by
15 willful and wanton misconduct by such volunteer.

16 (b) **CONCERNING RESPONSIBILITY OF VOLUNTEERS**
17 **WITH RESPECT TO ORGANIZATIONS.**—Nothing in this
18 section shall be construed to affect any civil action brought
19 by any nonprofit organization or any governmental entity
20 against any volunteer of such organization or entity.

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

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

6 (1) The organization or entity must adhere to
7 risk management procedures, including mandatory
8 training of volunteers, as defined by the Secretary of
9 Health and Human Services by regulation.

10 (2) The organization or entity shall be liable for
11 the acts or omissions of its volunteers to the same
12 extent as an employer is liable, under the laws of
13 that State, for the acts or omissions of its employ-
14 ees.

15 (3) The protection from liability does not
16 apply—

17 (A) if the volunteer was operating a motor
18 vehicle, vessel, aircraft, or other vehicle for
19 which the State involved requires the operator
20 or vehicle owner to maintain insurance;

21 (B) in the case of a suit brought by an ap-
22 propriate officer of a State or local government
23 to enforce a Federal, State, or local law; and

24 (C) to the extent the claim would be cov-
25 ered under any insurance policy.

1 (4) The protection from liability shall apply
2 only if the organization or entity provides a finan-
3 cially secure source of recovery for individuals who
4 suffer injury as a result of actions taken by a volun-
5 teer on behalf of the organization or entity. A finan-
6 cially secure source of recovery may be an insurance
7 policy within specified limits, comparable coverage
8 from a risk pooling mechanism, equivalent assets, or
9 alternative arrangements that satisfy the State that
10 the entity will be able to pay for losses up to a speci-
11 fied amount. Separate standards for different types
12 of liability exposure may be specified.

13 **SEC. 5. CERTIFICATION REQUIREMENT AND ADJUSTMENT**
14 **OF SOCIAL SERVICES BLOCK GRANT PRO-**
15 **GRAM ALLOTMENTS.**

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

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

9 **SEC. 6. DEFINITIONS.**

10 For purposes of this Act—

11 (1) the term “volunteer” means an individual
 12 performing services for a nonprofit organization or
 13 a governmental entity who does not receive—

14 (A) compensation (including reimburse-
 15 ment or allowance for expenses), or

16 (B) any other thing of value in lieu of com-
 17 pensation,

18 in excess of \$300, and such term includes a volun-
 19 teer serving as a director, officer, trustee, or direct
 20 service volunteer;

21 (2) the term “nonprofit organization” means
 22 any organization described in section 501(c) of the
 23 Internal Revenue Code of 1986 and exempt from tax
 24 under section 501(a) of such Code;

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

4 (4) the term “State” means each of the several
5 States, the District of Columbia, the Commonwealth
6 of Puerto Rico, the Virgin Islands, Guam, American
7 Samoa, the Northern Mariana Islands, any other
8 territory or possession of the United States, or any
9 political subdivision of any such State, territory, or
10 possession.

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