

114TH CONGRESS
1ST SESSION

S. 1684

To amend the Volunteer Protection Act of 1997 to provide for liability protection for organizations and entities.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2015

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

A BILL

To amend the Volunteer Protection Act of 1997 to provide for liability protection for organizations and 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 Organization
5 Protection Act of 2015”.

6 **SEC. 2. LIABILITY PROTECTION FOR ORGANIZATION OR**
7 **ENTITY.**

8 The Volunteer Protection Act of 1997 (42 U.S.C.
9 14501 et seq.) is amended—

10 (1) in section 3 (42 U.S.C. 14502)—

1 (A) in subsection (a), by inserting after
 2 “relating to volunteers” the following: “or vol-
 3 unteer nonprofit organizations”; and

4 (B) in subsection (b), in the matter pre-
 5 ceding paragraph (1), by inserting after
 6 “against a volunteer” the following: “or a vol-
 7 unteer nonprofit organization”;
 8 (2) in section 4 (42 U.S.C. 14503)—

9 (A) in the heading, by inserting “**AND**
 10 **VOLUNTEER NONPROFIT ORGANIZATIONS**”
 11 after “**VOLUNTEERS**”;

12 (B) by striking subsection (c) and insert-
 13 ing the following:

14 “(c) LIABILITY PROTECTION FOR ORGANIZATION OR
 15 ENTITY.—

16 “(1) IN GENERAL.—No volunteer nonprofit or-
 17 ganization shall be liable for harm caused by an act
 18 or omission of a volunteer on behalf of the organiza-
 19 tion unless—

20 “(A) the organization would be liable for
 21 the act or omission under generally applicable
 22 laws governing the direct or vicarious liability of
 23 organizations; and

1 “(B) the organization itself has expressly
2 authorized the specific conduct constituting the
3 act or omission.

4 “(2) GOVERNMENT REQUEST OR AUTHORIZA-
5 TION.—Notwithstanding paragraph (1), no volunteer
6 nonprofit organization shall be liable for harm
7 caused by an act or omission of the organization or
8 of a volunteer acting on behalf of the organization
9 if—

10 “(A) the organization or the volunteer en-
11 gaged in the act or omission at the request of
12 or pursuant to an authorization by the Federal
13 Government, a State government, or any agency
14 or subdivision thereof; and

15 “(B)(i) the requesting or authorizing gov-
16 ernmental entity would have been immune from
17 suit or from liability in damages if the entity
18 had engaged in the act or omission itself or
19 through an employee, agent, or independent
20 contractor; or

21 “(ii) any governmental employee, agent, or
22 contractor who had engaged in the act or omis-
23 sion on behalf of the requesting or authorizing
24 governmental entity would have been immune
25 from suit or from liability in damages by virtue

1 of immunity extended to individual govern-
 2 mental actors.

3 “(3) RULE OF CONSTRUCTION.—Except as pro-
 4 vided in paragraphs (1) and (2), nothing in this sec-
 5 tion shall be construed to affect the liability of any
 6 nonprofit organization or governmental entity with
 7 respect to harm caused to any person.”;

8 (C) in subsection (d)—

9 (i) by striking paragraph (2); and

10 (ii) by redesignating paragraphs (3)
 11 and (4) as paragraphs (2) and (3), respec-
 12 tively;

13 (D) in subsection (e)(1)—

14 (i) by striking “against a volunteer”
 15 and inserting the following: “against—

16 “(A) a volunteer”; and

17 (ii) by striking the period at the end
 18 and inserting the following: “; or

19 “(B) a volunteer nonprofit organization in
 20 an action brought for harm based on the action
 21 of a volunteer acting within the scope of the
 22 volunteer’s responsibilities to the organization
 23 unless the claimant establishes by clear and
 24 convincing evidence that the organization itself
 25 expressly authorized the volunteer’s action and

1 did so with a conscious, flagrant indifference to
 2 the rights or safety of the individual harmed.”;
 3 and

4 (E) in subsection (f)(1), by inserting “or of
 5 a volunteer nonprofit organization” after “li-
 6 ability of a volunteer”;

7 (3) in section 5 (42 U.S.C. 14504)—

8 (A) in subsection (a)—

9 (i) by inserting “or a volunteer non-
 10 profit organization” after “action against a
 11 volunteer”; and

12 (ii) by inserting “or volunteer non-
 13 profit organization” after “liability of the
 14 volunteer”; and

15 (B) in subsection (b)—

16 (i) in paragraph (1), by inserting “or
 17 a volunteer nonprofit organization” after
 18 “who is a volunteer”; and

19 (ii) in paragraph (2), by inserting “or
 20 a volunteer nonprofit organization” after
 21 “who is a volunteer”; and

22 (4) in section 6 (42 U.S.C. 14505)—

23 (A) by striking “For purposes of this Act”
 24 and inserting “(a) IN GENERAL.—For purposes
 25 of this Act”; and

1 (B) by adding at the end the following:

2 “(b) VOLUNTEER NONPROFIT ORGANIZATIONS.—

3 “(1) QUALIFICATION AS A VOLUNTEER NON-
4 PROFIT ORGANIZATION.—

5 “(A) ACTIONS CONDUCTED THROUGH VOL-
6 UNTEERS.—A nonprofit organization that con-
7 ducts substantially all of its activities solely
8 through the actions of volunteers or of inde-
9 pendent contractors is a volunteer nonprofit or-
10 ganization for purposes of this Act.

11 “(B) ORGANIZATION WITH NO EMPLOY-
12 EES.—A nonprofit organization that has no em-
13 ployees is conclusively presumed to be a volun-
14 teer nonprofit organization for purposes of this
15 Act.

16 “(C) LOCAL AFFILIATED ORGANIZATIONS
17 WITH NO EMPLOYEES.—

18 “(i) PRESUMPTION.—A nonprofit or-
19 ganization is presumed to be a volunteer
20 nonprofit organization for purposes of this
21 Act if the primary office and the majority
22 of the employees of the organization func-
23 tion primarily to provide support to local
24 affiliated organizations that do not have

employees and that act in furtherance of the organization's nonprofit mission.

“(ii) REBUTTAL.—The presumption under clause (i) may be rebutted only by clear and convincing evidence that the board of the nonprofit organization expressly authorized the employees of the nonprofit organization to assert active control over the local affiliated organization with respect to the act or omission in question.

“(D) PUBLIC CHARITIES; PRIVATE FOUNDATIONS; SOCIAL WELFARE ORGANIZATIONS.—A nonprofit organization is a volunteer nonprofit organization for purposes of this Act if the organization—

“(i) has fewer than 50 employees;

“(ii) has annual gross receipts of less than \$200,000; and

“(iii) is—

“(I) an organization described in paragraph (1), (2), or (3) of section 509(a) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code;

1 “(II) a private foundation, as de-
 2 fined in section 509 of the Internal
 3 Revenue Code of 1986, that is exempt
 4 from taxation under section 501(a) of
 5 such Code; or

6 “(III) an organization operated
 7 exclusively for the promotion of social
 8 welfare that is described in section
 9 501(c)(4) of the Internal Revenue
 10 Code of 1986 and is exempt from tax-
 11 ation under section 501(a) of such
 12 Code.

13 “(2) ACTS BY A VOLUNTEER NONPROFIT ORGA-
 14 NIZATION.—

15 “(A) GOVERNING DOCUMENTS OF ORGANI-
 16 ZATION.—A volunteer nonprofit organization
 17 acts ‘itself’ for purposes of this Act only if the
 18 person or body that is authorized by the gov-
 19 erning documents of the organization to act in
 20 the name of and on behalf of the organization
 21 expressly acts in accordance with those docu-
 22 ments.

23 “(B) APPLICABLE STATE LAW.—If the
 24 governing documents of a volunteer nonprofit
 25 organization do not identify the person or body

1 that is authorized to act in the name of and on
2 behalf of the organization, the organization acts
3 “itself” for purposes of this Act only if the per-
4 son or body whose action is required under the
5 applicable State law in order to bind the organi-
6 zation acts strictly in accordance with that
7 State law.”.

○