

able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(f) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(g) Exceptions to limitations on liability

(1) In general

The limitations on the liability of a volunteer under this chapter shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));¹

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Rule of construction

Nothing in this subsection shall be construed to effect subsection (a)(3) or (f).

(Pub. L. 105–19, § 4, June 18, 1997, 111 Stat. 219; Pub. L. 115–254, div. B, title V, § 584, Oct. 5, 2018, 132 Stat. 3399.)

Editorial Notes

REFERENCES IN TEXT

The Hate Crime Statistics Act, referred to in subsec. (g)(1)(B), is Pub. L. 101–275, Apr. 23, 1990, 104 Stat. 140, which was set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure, prior to editorial reclassification as section 41305 of Title 34, Crime Control and Law Enforcement, and as provisions set out as a note under section 41305 of Title 34.

¹ See References in Text note below.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, § 584(2), in introductory provisions, substituted “subsections (b), (c), and (e)” for “subsections (b) and (d)”.

Subsecs. (b) to (g). Pub. L. 115–254, § 584(1), (3), added subsec. (b) and redesignated former subsecs. (b) to (f) as (c) to (g), respectively.

Subsec. (g)(2). Pub. L. 115–254, § 584(4), substituted “(f)” for “(e)”.

§ 14504. Liability for noneconomic loss

(a) General rule

In any civil action against a volunteer, based on an action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity, the liability of the volunteer for noneconomic loss shall be determined in accordance with subsection (b).

(b) Amount of liability

(1) In general

Each defendant who is a volunteer, shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) Percentage of responsibility

For purposes of determining the amount of noneconomic loss allocated to a defendant who is a volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

(Pub. L. 105–19, § 5, June 18, 1997, 111 Stat. 221.)

§ 14505. Definitions

For purposes of this chapter:

(1) Economic loss

The term “economic loss” means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) Harm

The term “harm” includes physical, non-physical, economic, and noneconomic losses.

(3) Noneconomic losses

The term “noneconomic losses” means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) Nonprofit organization

The term “nonprofit organization” means—