

Originally Processed With FOIA(s):

S

FOIA Number:

S

# FOIA MARKER

**This is not a textual record. This is used as an administrative marker by the George Bush Presidential Library Staff.**

---

**Record Group/Collection:** George H.W. Bush Presidential Records  
**Collection/Office of Origin:** Speechwriting, White House Office of  
**Series:** Speech File Backup Files  
**Subseries:** Chron File, 1989-1993

---

**OA/ID Number:** 13799  
**Folder ID Number:** 13799-012

---

**Folder Title:**  
American Legislative Exchange Council--Volunteer Liability 2/21/92 [OA 7568] [5]

---

---

Stack:	Row:	Section:	Shelf:	Position:
<b>G</b>	<b>26</b>	<b>22</b>	<b>3</b>	<b>3</b>

---

1ST DOCUMENT of Level 1 printed in FULL format.

ALABAMA BILL TRACKING

STATENET

Copyright (c) 1991 by Information for Public Affairs, Inc.

HOUSE BILL 85

1991 AL H.B. 85

DATE-INTRO: APRIL 16, 1991

LAST-ACTION: JULY 29, 1991

SYNOPSIS: Relates to immunity from civil liability while in volunteer service without compensation for a nonprofit organization or corporation or governmental entity; provides that any public or community service volunteer without compensation shall be immune from civil liability in any civil action on the basis of any act or omission of such volunteer resulting in damage or injury if said volunteer was acting in good faith within the scope of this officials functions.

STATUS:

04/16/91 INTRODUCED. To HOUSE Committee on COMMERCE, TRANSPORTATION & UTILITIES.  
04/25/91 From HOUSE Committee on COMMERCE AND INDUSTRIAL DEVELOPMENT: Reported favorably.  
07/11/91 Substituted on HOUSE Floor. Passed HOUSE. \*\*\*\*\*To SENATE. To SENATE Committee on PUBLIC WELFARE.  
07/17/91 From SENATE Committee on PUBLIC WELFARE: Reported favorably.  
07/18/91 Passed SENATE.  
07/29/91 \*\*\*\*\*To GOVERNOR. Signed by GOVERNOR.

SUBJECT: BUSINESS AND CORPORATIONS, BUSINESS- GENERAL TYPES, Non-Profit Corporations, LABOR AND EMPLOYMENT, LABOR AND EMPLOYMENT- MISC, Volunteer Employees, LAW AND JUSTICE, CIVIL LIABILITY, Volunteer Liability

SPONSOR: Hooper et al



2ND STORY of Level 1 printed in FULL format.

Insurance Review Copyright (c) 1991 Information Access Company; Insurance Information Institute 1991

February, 1991

SECTION: Vol. 52; No. 2; Pg. 40

LENGTH: 1833 words

HEADLINE: A thousand points of fright; Lawsuit fears dampen the enthusiasm of rescue volunteers  
Civil Justice

BYLINE: Weber, David O.

BODY:

#### A THOUSAND POINTS OF FRIGHT?

In October 1983, Craig Fredborg celebrated his birthday by climbing Box Springs Mountain, overlooking Riverside, Calif. To his companions' horror, Fredborg slipped on a boulder and plummeted some 90 feet, sustaining severe spinal injuries.

Alerted that Fredborg lay helpless on the slope, Walter Walker, now 54, his son Kevin, 31, and teammates from the volunteer Riverside Mountain Rescue Unit scrambled to aid a physician and a paramedic in mounting a ticklish nighttime helicopter evacuation. Over the past 30 years, the unit's volunteers have saved hundreds of lives.

But for their troubles, the Walkers and the others involved in the emergency mission were sued two years later by the victim, who asked \$ 12 million in damages, claiming that "reckless and negligent" rescue techniques had caused him to become a quadriplegic.

The lawsuit eventually was dropped. But not before the Walkers lost a lot of hours from their family printing business giving depositions and meeting with defense attorneys provided them by the county sheriff's department.

Perhaps the most significant consequence of the suit, says Walker, is that meticulous documentation and planning procedures have been instituted in its wake to forestall future liability claims. "Probably we were a little weak in that," he concedes. Nevertheless, he adds, "It definitely has slowed us down in getting the team into the field.

"What I worry about most is not rescues but searches," Walker notes. "What happens if we don't find somebody and four days later they're discovered dead in the search area? Hopefully we can protect ourselves to the utmost. But concern about liability exposure has complicated how we look at every mission."

Across the country, a similar wariness increasingly constrains the activities of charitable organizations and the people who volunteer services on their behalf. Frightened by such well-publicized cases, one in seven non-profit agencies whose officers were polled by the Gallup Organization three years ago reported they had eliminated certain worthwhile programs simply because they could be breeding grounds for legal action.



## Insurance Review (c) 1991 IAC

"We are just more conscious than ever before of litigious possibilities," says Arnold Fege, governmental relations director for the National Parent-Teacher Association in Washington, D.C. "The bad thing has been the chilling effect on the activities we can sponsor, especially for high-risk kids--kids with handicaps--and child care programs."

Added to the fear of multimillion-dollar personal injury verdicts arising from volunteer efforts has been the scarcity and soaring expense of insurance to protect against them. Between 1984 and 1989, according to Dr. Creighton Hale, president of Little League Baseball Inc., headquartered in Williamsport, Pa., the cost of liability coverage for local programs shot up from \$ 75 to \$ 795 a year--a tab that forced many communities to disband their teams or "go bare" at considerable risk.

Just how risky is illustrated by a 1982 incident in which a Little League coach in Runnemede, N.J., was sued by the family of a child hit in the eye by a misjudged flyball. Lawyers for the family argued that the 10-year-old was a natural shortstop, and the coach had been negligent in repositioning him to the outfield. After two years of haggling, the case was settled for \$ 25,000.

No wonder, then, that nearly half the non-profit agency officers polled by Gallup in 1987 lamented that their ranks of volunteers had shrunk. And this, notes Fege, "in a decade when volunteer organizations are being asked to do more and more" as government programs and funds contract.

"The problem is not that volunteers have been sued successfully in large numbers," points out David Kohn, press secretary for Illinois Republican Rep. John Porter, who has led a four-year battle for federal legislation to shield individual volunteers from liability except in cases of willful or wanton misconduct. "The problem is that they've been named in so many lawsuits. And the costs of legal defense can be staggering."

Until the middle of this century, nonprofit organizations throughout the United States generally enjoyed "charitable immunity" from suits brought when their representatives were negligent. The rationale was that to siphon off institutional funds to pay damages would be a subversion of their intended purpose. Ironically, one of the first cracks in that doctrine was a 1942 federal appeals court ruling against a nonprofit hospital in which a student nurse was injured. The judges rejected the charitable immunity defense given the "prevalence and low cost" of liability insurance.

By the mid-1980s, proliferating lawsuits and headline-grabbing jumbo jury awards had made that a quaint joke. Some insurance carriers no longer would write liability policies for nonprofits, or their directors and officers, who suddenly had become the named targets of litigation. Other carriers boosted rates commensurate with the inflated payouts they feared.

Meanwhile, community leaders grew reluctant to hazard voluntary service on boards of agencies where their personal assets might be jeopardized should an accident occur.

A number of states reacted by passing "Good Samaritan" legislation offering various degrees of tort immunity to certain volunteers during emergencies, and when engaged in specific activities. About half the states, however, extended the safeguards to directors and officers only.



## Insurance Review (c) 1991 IAC

Gordon MacDougall, director of the National Coalition for Volunteer Protection, located in Washington, D.C., observes that board members and executives are a constituency understandably wielding clout among legislators. But why, he asks, should they be sheltered "when the direct service volunteer, the person who's actually filling the bowls at the soup kitchen, is still vulnerable?"

MacDougall's group, which includes a spectrum of nonprofit organizations from the Big Brothers/Big Sisters to social clubs and museums, began by drafting a model law for states to adopt that would "take all volunteers--who, after all, are providing a free service--out of the liability loop."

Broad enough to allow states to incorporate "various options" in mandating risk management and insurance coverage for charitable agencies, says MacDougall, the model law is based on the premise that "the balance in society weighs more heavily in favor of the volunteer--if you can provide some secure means of compensation for the injured victim."

For the past three years, MacDougall's coalition has put most of its effort behind passage of Rep. Porter's proposed federal legislation. Yet, despite a roster of more than 250 co-sponsors, the Porter bill--H.R. 911--once again died in committee last year. Stiff opposition was brought to bear by the Association of Trial Lawyers of America. "They're a strong lobby here in Washington," comments MacDougall. "Volunteers are not."

The latter do, however, have at least one potent ally: George Bush. Throughout his campaign, the president hailed the voluntary sector as "a thousand points of light." And in December, his White House Office of National Service announced three new "initiatives to protect volunteers from unwarranted exposure to legal liability and to make insurance to protect against such liability more affordable and easily available."

The president called for establishment of a "privately-funded, non-government controlled center to address the concerns of volunteer organizations about tort law liability." He said he would ask Congress to amend the Federal Risk Retention Act to remove obstacles to the formation of liability insurance purchasing groups by charitable organizations. And he proffered his administration's own model state volunteer protection law.

MacDougall and Charles Tremper, executive director of the Nonprofits' Risk Management & Insurance Institute in Washington, D.C., welcomed the White House action. But MacDougall admits, "We're very much disappointed they didn't involve our [two] groups at all. I think this new initiative would probably have started off with a lot greater steam if they'd worked with us."

Indeed, Tremper noted that the president's suggested clearinghouse already exists--his own institute, whose board is made up of representatives from the nation's largest consortia of volunteer-dependent organizations. And MacDougall worries that without "some sort of federal trigger," the states are unlikely to leap to embrace the presidential version of a law traditionally anathema to trial attorneys.

Reflecting a series of recommendations issued last year by a task force working under Tremper's Nonprofits' Risk Management & Insurance Institute, MacDougall agrees that personal liability protection for volunteers should be



## Insurance Review (c) 1991 IAC

coupled with mandatory insurance coverage for the organization, as well as risk management and training standards "to address some of our opponents' concerns that we're not sensitive to the needs of injured victims."

As to the loudly repeated complaints that liability insurance for nonprofits is exorbitantly priced, Gary Hurst, a broker at Corporate Insurance Management, a brokerage in Alexandria, Va., declares "It is a problem, but I don't think it needs to be a problem."

"Agents or companies often don't know about or are unwilling to provide coverage," Hurst acknowledges. "And nonprofits typically are asked to pay premiums higher than I believe their experience justifies."

For the past 20 years, a division of Corporate Insurance Management has been offering \$ 1 million of individuals liability coverage to organizations like Meals On Wheels, Goodwill Industries and the Easter Seal Society at a current premium of 50 cents per volunteer per year. For another \$ 3 each annually, the policy provides excess automobile liability coverage up to \$ 500,000. Thus a charitable agency with 50 volunteers, say, can give them insurance umbrellas for a total annual outlay of \$ 175.

"One problem nonprofits have," suggests Hurst, "is that insurance companies haven't tracked their experience. In the 1970s, there was a perception of substantial risk. We've been tracking our experience pretty carefully, though, and we've actually lowered our rates from where they started." (The brokerage's policies, backed by CIGNA, are available nationwide.)

Rep. Porter has vowed to reintroduce his bill in the coming session of Congress. MacDougall, Tremper and most of the nonprofit sector still will be rooting for its passage.

"We feel, based on state responses, there needs to be a federal incentive," explains MacDougall. "Maybe we'll try to get the model law introduced in Congress as pre-emptive federal legislation. Whatever, we'll try to use the president's interest in this to promote the issue. And I'm optimistic we can continue to ride the wave."

DAVID O. WEBER is a business and health writer based in Berkeley, Calif.

GRAPHIC: photograph

## SUBJECT:

Insurance, Liability, Law and legislation; Volunteers, Legal status, laws, etc.; Volunteer workers in social service, Insurance; Tort liability of charitable organizations, Cases

## COMPANY:

SIC: 6351

10414585

LOAD-DATE-MDC: April 12, 1991



1ST STORY of Level 1 printed in FULL format.

Copyright 1992 Newsday, Inc.

Newsday

January 20, 1992, Monday, MANHATTAN EDITION

SECTION: NEWS; Pg. 21

LENGTH: 239 words

HEADLINE: MANHATTAN NEIGHBORHOODS

BODY:

CITY / Pamphlet Gives

Guide to 'Volunteers'

Liability, Insurance

Though many state legislatures, including New York, have passed laws making it difficult to win a lawsuit against volunteers, the possibility of such a case is real.

Clarification of the legal liability of volunteers is provided in a pamphlet underwritten by Continental Insurance and produced by the Nonprofits' Risk Management and Insurance Institute.

In conversational style, the pamphlet, "Answers to Volunteers' Liability and Insurance Questions," points out that most personal auto insurance policies cover accidents that occur during volunteer service, but that most homeowner policies do not cover the types of claims that may be brought against volunteer board members.

State law provides protection against gross negligence and other types of liability, according to the pamphlet.

It also advises that the surest strategy to avoid being sued is to avoid causing harm.

"The chief strategy for preventing both harm and lawsuits is to be adequately prepared to perform your volunteer assignment and to follow procedures," it says. "Attending orientations and workshops is an essential part of serving the community effectively and avoiding lawsuits."

To obtain a free copy of the pamphlet, send, a stamped, self-addressed business-sized envelope to: NRMII Publications, 1828 L Street, N.W., Suite 505, Washington, D.C. 20036.



3RD STORY of Level 1 printed in FULL format.

Copyright (c) 1990 The Christian Science Publishing Society;  
The Christian Science Monitor

February 16, 1990, Friday

SECTION: EDITORIAL; LETTERS; Pg. 20

LENGTH: 226 words

HEADLINE: Volunteer liability

BODY:

The article "Reforming Liability Laws," Jan. 23, gives a balanced view of the politics behind the Volunteer Protection Act - an act which encourages states to limit liability of volunteers. The article also exposes the deceitful and self-serving position of the Association of Trial Lawyers of America (ATLA).

For the past five years ATLA has used its considerable lobbying weight - it is one of the largest overall campaign contributors on Capitol Hill - to block legislation designed to boost volunteerism. In this article, ATLA president Russ Herman asks, "Why should innocent victims bear the responsibility for another person's fault?" Under this legislation, they wouldn't.

If Mr. Herman understood the proposed legislation he would realize that it seeks to protect sources of recovery for innocent victims while at the same time protecting volunteers from law suits. It is balanced and fair legislation, and ATLA is doing a disservice to its members by opposing it.

ATLA's position is clearly anti-volunteer and pro-lawyer. ATLA serves to protect lawyers' incomes, not plaintiffs' rights. Congress and the public need to beat ATLA with the Volunteer Protection Act.

Gordon MacDougall, Washington

Letters are welcome. Only a selection can be published, subject to condensation, and none acknowledged. Please address to "readers write."



**Model State  
Volunteer Service  
Act and  
Commentary**

December 1990



Office of the Attorney General  
Washington, D. C. 20530

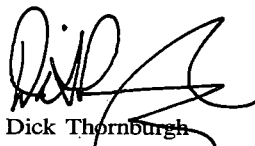
*"From now on in America, any definition of a  
successful life must include serving others."*

President George Bush  
June 22, 1989

President Bush has announced a new initiative directed at providing volunteer liability protection to all Americans who give of themselves to help others. This initiative recognizes the chilling effect felt by many volunteers throughout the nation who fear they could be sued as a result of their volunteer efforts.

In keeping with the principles of Federalism, the President urges the lifting of this fear by adoption by the States of the following Model State Volunteer Service Act. This Act provides a fair balance between the right of a person to seek redress for injury and the right of an individual to volunteer without undue fear of litigation.

The Department of Justice is proud of its role in supporting the President in this vital initiative to assist those who assist others.



Dick Thornburgh  
Attorney General of the  
United States

---

# Model State Volunteer Service Act

## Title

Section 1. This statute is entitled "The Volunteer Service Act."

## Preamble

Section 2. The legislature finds and declares that --

- (a) the willingness of volunteers to offer their services has been increasingly deterred by a perception that they put personal assets at risk in the event of tort actions seeking damages arising from their activities as volunteers;
- (b) the contributions of programs, activities and services to communities is diminished and worthwhile programs, activities and services are deterred by the unwillingness of volunteers to serve either as volunteers or as officers, directors or trustees of nonprofit public and private organizations;
- (c) it is in the public interest to strike a balance between the right of a person to seek redress for injury and the right of an individual to freely give of his time and energy without compensation as a volunteer in service to his community without fear of personal liability for acts undertaken in good faith absent willful or wanton conduct on the part of the volunteer; and
- (d) the provisions of the within Act are intended to encourage volunteers to contribute their services for the good of their communities and at the same time

---

provide a reasonable basis for redress of claims which may arise relating to those services.

### **Definitions**

Section 3. For the purposes of this Act, the meaning of the terms specified shall be as follows:

“Volunteer” is a person performing services for a non-profit organization, a nonprofit corporation, a hospital, or a governmental entity without compensation, other than reimbursement for actual expenses incurred. The term includes a volunteer serving as a director, officer, trustee or direct service volunteer;

“Nonprofit organization” is any organization which is exempt from taxation pursuant to section 501(c) of the Internal Revenue Code, 26 U.S.C. section 501(c), as amended;

“Nonprofit corporation” is any corporation which is exempt from taxation pursuant to section 501(a) of the Internal Revenue Code, 26 U.S.C. section 501(a);

“Governmental entity” is any county, municipality, township, school district, chartered unit or subdivision, governmental unit, other special district, similar entity, or any association, authority, board, commission, division, office, officer, task force or other agency of any State.

### **Scope of Immunity**

Section 4. (a) Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

- (1) The volunteer was acting in good faith and within the scope of such volunteer's official functions and

---

duties for a nonprofit organization, a nonprofit corporation, hospital or a governmental entity; and

- (2) The damage or injury was not caused by willful and wanton misconduct by such volunteer.
- (b) In any suit against a nonprofit organization, nonprofit corporation or a hospital for civil damages based upon the negligent act or omission of a volunteer, proof of such act or omission shall be sufficient to establish the responsibility of the organization therefor under the doctrine of *respondeat superior*, notwithstanding the immunity granted to the volunteer with respect to any act or omission included under the subsection (a) of this section.

### **Exception**

Section 5. Notwithstanding section 4 of this Act, a plaintiff may sue and recover civil damages from a volunteer based upon a negligent act or omission involving the operation of a motor vehicle during an activity; provided, that the amount recovered from such volunteer shall not exceed the limits of applicable insurance coverage maintained by or on behalf of such volunteer with respect to the negligent operation of a motor vehicle in such circumstances.

### **Effective Date**

Section 6. This Act shall be effective as to any civil suit for damages commenced on or after 180 days from the date of enactment of the Act regardless of whether the claim arose prior to the date of enactment.

(Alternative version: This Act shall be effective as to any claim that accrues on or after 180 days from the date of enactment of the Act.)

---

# Commentary on Model State Volunteer Service Act

- Section 1. The title of the Act should conform to state practice.
- Section 2. The preamble is intended to be a guide to construction of the Act in accordance with its purpose to protect volunteers and governmental entities from civil damage liability arising from volunteer activities.
- Section 3. The term "hospital" is intended to have the same meaning otherwise commonly given the term under state law.
- Section 4. Section 4 is the heart of the Act. It is intended to protect volunteers from civil liability in all instances in which they are acting pursuant to their voluntary undertaking in good faith regardless of whether their activity was negligent or amounts to "gross negligence" or might be the basis for a strict liability claim. Subsection (b) has been added to make it clear that volunteer entities are not immune from liability to the extent that state law otherwise permits suit against such organizations. However, the intent of the Act is not to subject such organizations to liability where liability otherwise would not exist.
- Section 5. Section 5 modifies the immunity enacted by section 4 by providing that an individual volunteer may be sued for a negligent act or

---

omission involving the operation of a motor vehicle to the extent the volunteer possesses insurance coverage.

Volunteers maintain automobile insurance policies, and in some instances are required by law to do so, based upon their own needs. The cost of this kind of insurance for volunteers is not materially affected by the possibility that there might be claims arising from volunteer activities that are covered under these policies.

Section 6. Section 6 enacts an effective date which will permit persons who possess claims to bring suit under the present legal standards for a reasonable period. The effective date is made applicable only after 180 days elapse in order to permit the entities involved to assess their reasonable insurance coverage with the expectation that reasonable insurance coverage would be purchased on or before the effective date of the Act.

Section 6 does not affect applicable limitations statutes.