

VOLUNTEER PROTECTION ACT - PUBLIC LAW 105-19

On June 18, 1997, President Clinton signed Public Law: 105-19 the Volunteer Protection Act of 1997.

The Volunteer Protection Act of 1997 - States that this Act preempts inconsistent State law except when such law provides additional protection from liability relating to volunteers in the performance of services for a nonprofit organization or governmental entity. Makes this Act inapplicable to any civil action in a State court against a volunteer in which all parties are citizens of the State enacts a statute declaring its election that this Act not apply.

Exempts a volunteer of a nonprofit organization or governmental entity from liability for harm caused by an act or omission of the volunteer on behalf of such organization or entity if: (1) the volunteer was acting within the scope of his or her responsibilities at the time; (2) the volunteer was properly licensed or otherwise authorized for the activities or practice in the State in which the harm occurred; (3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed; and (4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft or other vehicle for which the State requires the operator or owner to possess an operator's license or maintain insurance.

Specifies conditions of State laws limiting volunteer liability which shall not be construed as inconsistent with the Act.

Prohibits the award of punitive damages against a volunteer 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.

Provides that the volunteer liability limitations of this Act shall not apply to any misconduct; (1) that constitutes a crime of violence, and act of international terrorism, or a hate crime; (2) that involves a sexual offense or a violation of civil rights law; or (3) where the defendant was under the influence of intoxicating alcohol or any drug.

Makes each volunteer liable for noneconomic loss only in the amount allocated to each defendant in direct proportion to the percentage of responsibility for the harm for which that defendant is liable. Requires the trier of fact to determine such percentage of responsibility.

The above information is a summary of The Volunteer Protection Act of 1997. If your department would like to have a copy of the entire Law, you may write your local Congressman and request a copy of the law or contact Fire Department-PAK at 1-800-280-7897.