

State of Arkansas

76th General Assembly

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HOUSE BILL 1112

By: Rep. Doug Wood

AS ENGROSSED 1/26/87

Rep. Clark

AS ENGROSSED 1/29/87

"AN ACT TO PROVIDE THAT QUALIFIED VOLUNTEERS SHALL NOT BE CIVILLY LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE RESULTING FROM ANY ACT OR OMISSION IN CARRYING OUT THEIR VOLUNTEER ACTIVITIES; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Declaration of Legislative Intent. Since the spirit of voluntarism has long animated citizens of this State to give of their time and abilities to help others, the State of Arkansas would be wise to ensure that qualified volunteers shall not be civilly liable for personal injury or property damage resulting from any act or omission in carrying out their authority or responsibilities as volunteers. While there are no known recent instances, in Arkansas, where a volunteer has been subjected to personal liability for negligence in performing volunteer duties, and there are no such cases presently known to be pending, the recent publicity generated in relation to the perceived "insurance crisis" has heightened concern among many who would provide volunteer services, thereby making it more difficult to provide certain important services, cultural and educational events, and other opportunities to the citizens of the State of Arkansas through voluntary services. This Act limits and defines the liability of volunteers in order to diminish their concern with regard to personal liability associated with volunteer work, in order that the State might maximize this important human resource.

SECTION 2. This Act may be cited as the "Arkansas Volunteer Immunity Act."

SECTION 3. Definitions. As used in this Act, the following terms shall

have the following meaning, unless another meaning may be clearly inferred from the content:

(a) "Qualified volunteer" means any person who, of free will, provides goods or services without financial compensation to or through any volunteer agency in connection with a volunteer program.

(b) "Volunteer agency" means any volunteer program of all departments, institutions and divisions of State government, community volunteer organization or any not-for-profit corporation which has received a 501C3 designation from the United States Internal Revenue Service, other than one established principally for the recreational benefit of its stockholders or members.

(c) A "volunteer activity" means any activity within the scope of any project, program, effort, or other regular activity sponsored by a volunteer agency with the intent to effect a charitable purpose, or confer other public benefit including, but not limited to, enhancement of the cultural, civic, religious, educational, scientific or economic resources of the community.

SECTION 4. A qualified volunteer shall not be held vicariously liable for the negligence of another in connection with or as a consequence of his or her volunteer activities.

SECTION 5. A qualified volunteer shall not be liable in damages for personal injury or property damage sustained by one who is a participant in, or a recipient, consumer or user of the services or benefits of a volunteer by reason of any act or omission of a qualified volunteer in connection with the volunteer except as follows:

(a) Where the qualified volunteer is covered by a policy of insurance, in which case liability for ordinary negligence is limited to the amount of the coverage provided;

(b) Where the qualified volunteer acts in bad faith or is guilty of gross negligence;

(c) Where the qualified volunteer negligently operates a motor vehicle, aircraft, boat, or other powered mode of conveyance; provided that if the actionable conduct of the qualified volunteer is covered by a policy of liability insurance, his liability for ordinary negligence shall be limited to the amount of the coverage provided.

(d) Where the qualified volunteer negligently performs professional services extended to an individual, which the qualified volunteer is licensed under State law to perform, including, but not limited to, legal, medical, engineering, and accounting services; provided that if the volunteer agency either provides or requires its professional volunteers to carry professional liability insurance in an amount customarily carried by a member of the profession involved and if recipients of the professional services are clearly informed of the amount of coverage thus provided and the limitation of liability arising therefrom, liability for ordinary negligence in rendering such professional service shall be limited to the amount of coverage available or the amount required by the agency, whichever is larger. This exception does not apply to nurses or similar health care providers rendering health care services or other professionals rendering professional services to a government entity, business, or volunteer agency.

SECTION 6. Nothing in this Act shall be construed to limit the liability of a person acting outside the scope of the volunteer program.

SECTION 7. Nothing in this Act shall be construed to limit the liability of any volunteer agency.

SECTION 8. Emergency. It is hereby found and determined by the General Assembly that many persons contribute their valuable knowledge and services as unpaid volunteers in the promotion and performance of various programs administered by State and local agencies which are designed to meet the needs of the State and the several communities and that such persons should not be held civilly liable for their acts or omissions in carrying out their authority and responsibilities as volunteers if such acts or omissions were performed in good faith and did not constitute gross negligence; that the law does not now specifically provide such civil immunity; that the present state of the law results in inequitable burdens being placed upon such persons; and that this Act is immediately necessary to eliminate such inequity. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/ Doug Wood